



Journal of the Senate

State of Indiana

114th General Assembly

Second Regular Session

Twenty-sixth Meeting Day

Wednesday Afternoon

March 1, 2006

The Senate convened at 1:35 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

The Senate Reader was directed to read the previously read section of the District Court's Order in *Hinrichs v. Bosma*, as set out in full in the Senate Journal of January 9, 2006.

Silent prayer followed the reading.

The Pledge of Allegiance to the Flag was led by the President of the Senate.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Becker	Lubbers
Bowser	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Craycraft	Mishler
Delph	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Simpson
Harrison	Sipes
Heinold	Skinner
Hershman	Smith <input checked="" type="checkbox"/>
Howard	Steele
Hume	Tallian
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 254: present 49; excused 1. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolutions 35 and 41 and the same are herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Senate amendments to Engrossed House Bill 1279 and is eligible for enrollment.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed Senate Bill 6 with amendments and the same is herewith returned to the Senate for concurrence.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed Senate Bills 22, 112, 132, 147, 148, and 160 with amendments and the same are herewith returned to the Senate for concurrence.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed, without amendments, Engrossed Senate Bills 86, 146, 151, and 154 and the same are herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Concurrent Resolution 37, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said resolution do pass.

Committee Vote: Yeas 6, Nays 0.

LUBBERS, Chair

Report adopted.

MOTIONS TO DISSENT FROM HOUSE AMENDMENTS

SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 41 and that a

conference committee be appointed to confer with a like committee of the House.

MILLER

Motion prevailed.

SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 83 and that a conference committee be appointed to confer with a like committee of the House.

LUBBERS

Motion prevailed.

SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 6 and that a conference committee be appointed to confer with a like committee of the House.

STEELE

Motion prevailed.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 47

Senate Concurrent Resolution 47, introduced by Senator Rogers:

A CONCURRENT RESOLUTION honoring the City of Gary, Indiana as it celebrates its Centennial Anniversary.

Whereas, The City of Gary, Indiana was founded on July 14, 1906 named in honor of the chairman of U.S. Steel Corp., Elbert H. Gary, who was pivotal in the creation of the city through his vision of building the largest and most modern steel plant in the world; and

Whereas, The population of Gary more than tripled from 16,800 people in 1910 to 55,000 people in 1920 when it became the largest city in the region and is now over 100,000 people; and

Whereas, Gary was seen as the world's most modern city, was referred to as "The Magic City", and was a great ethnic melting pot due to the attraction of immigrants from Poland, Romania, Serbia, Hungary, Ireland, and other countries for jobs in the mills; and

Whereas, William Wirt, the "father of modern education" who moved to Gary in 1907 built an education system in the city that focused on education of the whole child and became a national model; and

Whereas, Gary's history has been colored with both times of great prosperity and times of economic challenge, from the post-war production booms after WWI and WWII to the Great Depression of the 1930s and the staggering economic recession in the 1970s; and

Whereas, Richard G. Hatcher was elected in 1967 to serve as Mayor of Gary and subsequently elected to four more terms; he was

the country's first African-American metro city mayor and worked to improve housing conditions in the city and garner federal job training programs for displaced workers and the unemployed; and

Whereas, Community leaders are currently striving to diversify Gary's economy, adding service industries and high-tech jobs to create a business mix that will include but not be limited to steel, and constructing new housing and refurbishing existing residential neighborhoods; and

Whereas, The City's Centennial celebration events, with the theme "100 reasons to come home", will include neighborhood celebrations, a Founders Day week in July with original music scores and theater presentations, prayer breakfasts, restoration of the famous Gary Land building at Fifth Avenue and Broadway and the opening of a time capsule in April that was buried in front of City Hall in 1956; and

Whereas, The centerpiece of the memorial festivities will be a 30 foot, granite-based sculpture named "The Fusion", which depicts the history of Gary by representing the steel industry, its workers, arts and diversified culture: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. The General Assembly honors the City of Gary, Indiana as it celebrates its Centennial Anniversary.

SECTION 2. The Secretary of the Senate shall transmit a copy of this Resolution to Scott L. King, Mayor of Gary, and to the Gary Centennial Committee.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives C. Brown and Smith.

House Concurrent Resolution 60

House Concurrent Resolution 60, sponsored by Senators Tallian and Heinold:

A CONCURRENT RESOLUTION to honor and congratulate the Chesterton High School State Debate Team for winning the 2006 State Debate Championship.

Whereas, The Chesterton High School State Debate Team won the state debate championship for the ninth consecutive time and the seventeenth time overall;

Whereas, The Chesterton High School State Debate Team scored 87 points, nearly doubling the score of the second place school;

Whereas, The Chesterton Debate Team had three of the four individual state champions - Rachel Wyatt in Congressional Debate, Kate Weber and Beau Rajsic in Public Forum Debate, and Sam Lahti and Tess Mullin in Policy Debate;

Whereas, Other members of the Chesterton High School debate

team qualified for the advanced elimination rounds: Heather Stavropoulos was elected Speaker of the House; Amanda Kessinger placed seventh in Congressional Debate; Amy Zehner and Andrew Keithley competed in the final round of Congressional Debate; Luci Doler and Sarah Morlock placed second in Policy Debate; Ray Raffin and Phil Braunlich made quarter finals in Policy Debate; Conor O'Brien and Tyler Demar made octa finals in Policy Debate; Matt DeLeon and Alex Sisto placed second in Public Form Debate; and Ashley Hanson and Cassie Recker made quarter finals in Public Forum Debate;

Whereas, Melissa Frye and Sarah Christofersen competed in Public Forum Debate, and Stephanie Leopold, Brandon Patterson, Andrew Thoesen, and Nathan Pavlovic competed in Lincoln-Douglas Debate;

Whereas, Coaches James Cavallo, Scott Woodhouse, and Chris Lowery should be commended for their contributions of time and effort in guiding these champions to victory;

Whereas, These young men and women are to be commended for their dedication and hard work and congratulated for their outstanding accomplishments in the field of debating: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana House of Representatives honors and congratulates the Chesterton High School State Debate Team for winning the 2006 State Debate Championship.

SECTION 2. That the Principal Clerk of the House of Representatives transmit copies of this resolution to the members and coaches of the Chesterton High School Debate Team.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

1:55 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 4:24 p.m., with the President of the Senate in the Chair.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 42

Senate Concurrent Resolution 42, introduced by Senators Simpson and Miller:

A CONCURRENT RESOLUTION urging the legislative council to direct the Health Finance Commission to conduct a study during the interim regarding health coverage systems which have been

considered and implemented across the country and the world in order to answer the needs of insured and uninsured Hoosiers.

Whereas, The number of uninsured Hoosiers has risen to a two decade high comprising 14.2% of the population; and

Whereas, 144,000 Hoosier children remain uninsured; and

Whereas, The percentage of Hoosier firms offering health benefits to their employees has fallen significantly by 5.9% over the past five years; and

Whereas, The percentage of small firms who offer their employees coverage has fallen by 11% over the past five years; and

Whereas, The cost of health insurance has risen by a dramatic 73% over the past five years; and

Whereas, Health insurance premiums across the country increased by nearly four times the rate of inflation: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Legislative Council is urged to direct the Health Finance Commission to conduct a study during the interim regarding health coverage systems which have been considered and implemented across the country and the world in order to answer the needs of insured and uninsured Hoosiers.

SECTION 2. That the Commission shall operate under the direction of the Legislative Council and shall issue a final report when directed to do so by the council.

The resolution was read in full and referred to the Committee on Health and Provider Services.

Senate Resolution 12

Senate Resolution 12, introduced by Senators Simpson and Bray:

A CONCURRENT RESOLUTION urging the Legislative Council to assign to the Commission on Courts the topic of the establishment of a dedicated fund for court fees.

Whereas, The Commission on Courts should study the issue of establishing a dedicated fund for court fees to determine if excess funds may be available for other purposes: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana:

SECTION 1. That the legislative council is urged to assign to the Commission on Courts the topic of the establishment of a dedicated fund for court fees.

SECTION 2. That the committee shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

March 1, 2006

Senate 677

The resolution was read in full and referred to the Committee on Judiciary.

Senate Resolution 13

Senate Resolution 13, introduced by Senator Delph:

A RESOLUTION urging the Indiana advisory commission on intergovernmental relations to study interlocal cooperation agreements.

*Be it resolved by the Senate of the
General Assembly of the State of Indiana:*

SECTION 1. That the Indiana advisory commission on intergovernmental relations established by IC 4-23-24.2-4 is urged to:

- (1) review IC 36-1-7 and any other statutes and laws regarding interlocal cooperation agreements; and
- (2) recommend legislation that would provide a political subdivision with more options for consolidating or reorganizing the political subdivision's performance of functions or provision of services by entering into interlocal cooperation agreements.

SECTION 2. That the commission shall operate under the direction of the legislative council, and that the commission shall issue a final report when directed to do so by the council.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

MOTIONS TO DISSENT FROM HOUSE AMENDMENTS

SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 12 and that a conference committee be appointed to confer with a like committee of the House.

LONG

Motion prevailed.

REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 6:

Conferees: Steele, Chair and Mrvan

Advisors: Long and Bowser

GARTON

Date: 3/1/2006

Time: 1:55 p.m.

Report adopted.

REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the

following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 41:

Conferees: Miller, Chair and Sipes

GARTON

Date: 3/1/2006

Time: 1:41 p.m.

Report adopted.

REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 83:

Conferees: Lubbers, Chair and Lanane

Advisors: Wyss and Bowser

GARTON

Date: 3/1/2006

Time: 1:29 p.m.

Report adopted.

ENGROSSED HOUSE BILLS ON SECOND READING

Engrossed House Bill 1008

Senator Meeks called up Engrossed House Bill 1008 for second reading. The bill was read a second time by title.

SENATE MOTION (Amendment 1008-24)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 12, line 7, after "person." insert "**However, the terms of the trust must provide that the trust terminates when no funds remain in the trust.**".

Page 12, line 21, delete "principal of the trust may not be diminished" and insert "**principal and interest of the trust may not be diminished before the balance in the trust reaches one billion dollars (\$1,000,000,000).**".

Page 12, delete line 22.

Page 12, line 26, delete "all interest accruing from the investment of the" and insert "**the treasurer of state shall annually:**

(1) transfer all interest accruing to the trust; plus

(2) the greater of:

(A) one hundred million dollars (\$100,000,000) of the principal of the trust; or

(B) the remaining balance of the principal of the trust; to the major moves construction fund."

Page 12, delete lines 27 through 30.

(Reference is to EHB 1008 as printed February 24, 2006.)

MEEKS

Motion prevailed.

SENATE MOTION (Amendment 1008-25)

Madam President: I move that Engrossed House Bill 1008 be

amended to read as follows:

Page 9, line 36, after "budget." insert **"The regional development authority shall pay at least ten million dollars (\$10,000,000) of the distribution received under this subdivision to an airport authority that is carrying out an airport expansion project described in IC 36-7.5-2-1(2)."**

Page 9, line 38, delete "county that establishes a local" and insert **"of the following counties:"**.

Page 9, delete line 39.

Page 10, line 3, after "IC 8-14-16-1(7)." insert **"The county shall pay at least five million dollars (\$5,000,000) of the distribution received under this clause to an airport authority that is carrying out an airport expansion project described in IC 36-7.5-2-1(2)."**

Page 10, line 37, delete "fund under" and insert **"money received by the authority under a public-private agreement concerning the Indiana Toll Road entered into under IC 8-15.5"**.

Page 10, line 38, delete "sections 6 and 7 of this chapter".

Page 10, line 41, delete "a" and insert **"that"**.

Page 10, line 41, delete "concerning the Indiana" and insert **"."**.

Page 10, line 42, delete "Toll Road entered into under IC 8-15.5."

Page 11, between lines 15 and 16, begin a new line block indented and insert:

"(7) Amounts allocated to the bond retirement account of the toll road fund under IC 8-15.5-11-4.

(8) Amounts allocated to the administration account of the toll road fund under IC 8-15.5-11-4."

Page 11, line 32, after "IC 8-15.5-11" insert **"to be used exclusively for the provision of highways, roads, and bridges"**.

Page 11, line 33, delete "highways, streets, roads, and other related transportation" and insert **"those facilities."**

Page 11, delete line 34.

Page 11, line 36, delete "a" and insert **"the"**.

Page 11, line 36, after "purpose" insert **"provided in this section"**.

Page 13, delete lines 34 through 42.

Page 14, delete lines 1 through 2.

Page 14, line 3, delete "Sec. 5." and insert **"Sec. 2."**

Page 14, line 4, delete "by a county".

Page 14, delete lines 6 through 15, begin a new paragraph and insert:

"Sec. 3. (a) Except as provided in subsection (b), money distributed to a county described in section 1 of this chapter from the major moves construction fund under IC 8-14-14-6(a)(3) shall be distributed by the county auditor among the county and each of the cities and towns in the county that is eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1, in the same proportion among the county, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1.

(b) Money designated for payment to an airport authority under IC 8-14-14-6(a)(3) is not subject to distribution under this section."

Page 14, line 16, delete "Sec. 9." and insert **"Sec. 4."**

Page 14, line 16, delete "described in section 1" and insert **", city, or town that receives a distribution under section 3"**.

Page 14, line 18, after "county" insert **", city, or town"**.

Page 14, line 19, delete "IC 8-14-14." and insert **"section 3 of this chapter."**

Page 14, line 20, delete "county auditor" and insert **"fiscal officer of the county, city, or town"**.

Page 14, line 21, delete "The county fiscal body, after consulting with the county" and insert **"Subject to subsection (f), the fiscal body of the county, city, or town"**.

Page 14, line 22, delete "executive,".

Page 14, line 23, delete "section 10" and insert **"section 5"**.

Page 14, between lines 28 and 29, begin a new paragraph and insert:

"(f) A county fiscal body must consult with the county executive before making an appropriation under this section."

Page 14, line 29, delete "Sec. 10." and insert **"Sec. 5."**

Page 14, delete lines 31 through 42, begin a new line block indented and insert:

"(1) Construction of highways, roads, and bridges.

(2) In a county that is a member of the northwest Indiana regional development authority, or in a city or town located in such a county, any purpose for which the regional development authority may make expenditures under IC 36-7.5."

Page 15, delete lines 1 through 29.

Page 15, line 30, delete "(11)" and insert **"(3)"**.

Page 15, line 30, after "projects" insert **"(as defined in IC 6-3.5-7-13.1)"**.

Page 15, line 32, delete "(12)" and insert **"(4)"**.

Page 15, line 34, delete "(13)" and insert **"(5)"**.

Page 16, line 29, delete "." and insert **"to a state agency or political subdivision."**

Page 18, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 9. IC 8-15-2-5.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.2. The authority may not sell, convey, or mortgage a toll road project."

Page 25, delete lines 40 through 42.

Page 26, delete lines 1 through 24.

Page 27, between lines 33 and 34, begin a new paragraph and insert:

"Sec. 3. The general assembly finds and determines that:

(1) the state has limited resources to fund the maintenance and expansion of the state transportation system, including toll roads, and therefore alternative funding sources should be developed to supplement public revenue sources;

(2) the Indiana finance authority should be authorized to solicit, evaluate, negotiate, and administer agreements with the private sector for the purposes described in subdivision (1); and

(3) it is necessary to serve the public interest and to provide for the public welfare by adopting this article for the purposes described in this article."

Page 30, line 8, after "Sec. 7." insert **"(a)"**.

Page 30, between lines 12 and 13, begin a new paragraph and insert:

"(b) In determining whether one (1) or more responsible offerors are reasonably capable of being selected for a public-private agreement, the authority must consider all of the following:

(1) The responsible offeror's expertise, qualifications, competence, skills, and know-how to perform its obligations under the proposed public-private agreement in accordance with the public-private agreement.

(2) The financial strength of the responsible offeror, including its capitalization.

(3) The experience of the responsible offeror in operating toll roads and highways and other similar projects and the quality of the responsible offeror's past or present performance on other similar or equivalent projects.

(4) The integrity, background, and reputation of the responsible offeror, including the absence of criminal, civil, or regulatory claims or actions against the responsible offeror.

(c) The requirements set forth in subsection (b) also apply to the approval by the authority of any successor or replacement operator under the public-private agreement after the execution of the public-private agreement under section 11 of this chapter.

(d) In making its determination under subsection (b) or (c), the authority shall consider the offeror or operator as well as any private entity that controls the actions of the offeror or operator."

Page 40, between lines 27 and 28, begin a new line block indented and insert:

"(5) Amounts transferred to the fund under subsection (i)."

Page 41, between lines 2 and 3, begin a new paragraph and insert:

"(i) As soon as practicable after a public-private agreement concerning the Indiana Toll Road has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted, the authority shall determine the total balance remaining in all toll road funds and accounts established under IC 8-15-2. Subject to any applicable trust indentures securing toll road bonds, the authority may retain from those funds and accounts the amounts necessary to pay outstanding obligations with respect to the operation of the Indiana Toll Road incurred before the effective date of the public-private agreement, and shall transfer all remaining balances in the toll road funds and accounts to the fund."

Page 42, line 4, after "to" insert **"the"**.

Page 42, line 4, delete "account." and insert **"fund."**

Page 42, between lines 4 and 5, begin a new line blocked left and insert:

"In addition, any amounts transferred to the fund under section 3(i) of this chapter after the date described in this subsection shall be transferred to the major moves construction fund."

Page 42, line 38, delete "any" and insert **"at least a one percent (1%)"**.

Page 42, line 40, delete "any" and insert **"at least a one percent (1%)"**.

(Reference is to EHB 1008 as printed February 24, 2006.)

MEEEKS

Upon request of Senator Rogers the President ordered the roll of the Senate to be called. Roll Call 255: yeas 31, nays 18.

Motion prevailed.

SENATE MOTION (Amendment 1008-36)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 8, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 5. IC 8-9.5-8-10 IS AMENDED TO READ AS FOLLOWS [JULY 1, 2006] [EFFECTIVE JULY 1, 2006]: Sec. 10.

(a) Except as provided in section 11 of this chapter, the authority may issue toll road bonds under IC 8-15-2 or toll bridge bonds under IC 8-16-1 only:

(1) after obtaining the approval of the commissioner of the Indiana department of transportation;

(2) after the general assembly has ~~based on the recommendations of the commissioner of the Indiana department of transportation~~, provided for the issuance of the bonds by establishing in an act the maximum aggregate principal amount of bonds that the authority may issue;

(3) after the authority has delivered to the budget agency a written guarantee that the aggregate amount of attorney's fees for the particular proposed bond issue will not exceed two-tenths of one percent (0.2%) of the principal amount of the proposed issue of toll road and toll bridge bonds; and

(4) with the approval of the budget committee, the budget agency, and the governor.

(b) The authority may include money from the rural transportation road fund as a source of revenue in the performance of contracts and leases with the Indiana department of transportation under IC 8-23-2-6(a)(3). Revenues from that allocation may be used in the determination of the feasibility of a toll road or toll bridge project."

Page 15, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 9. IC 8-15-2-4, AS AMENDED BY P.L.235-2005, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) "Authority" refers to the Indiana finance authority established under IC 4-4-11.

(2) "Capitalized interest" means:

(A) interest costs on toll road revenue bonds before and during the period of construction of the project for the payment of the cost of which the bonds were issued, and for one (1) year after completion of construction; and

(B) interest costs on succeeding lien bonds authorized by this chapter for the period from the date of such bonds until the date when the prior outstanding toll road revenue bonds, for which revenues are pledged, are retired, but not later than ten (10) years from the date of issue of the succeeding lien bonds.

(3) "Department" refers to the Indiana department of transportation.

(4) "Project" or "toll road project" means any express highway, superhighway, or motorway constructed under the provisions of this chapter or accepted as a toll road under IC 8-23-7, including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, tollhouses, service stations, and administration, storage, and other buildings and

facilities which the authority may deem necessary or desirable for the operation of the project, together with all property, rights, easements, and interests which may be acquired by the authority for the construction or the operation of the project. "Project" or "toll road project" includes any subsequent improvement, betterment, enlargement, extension, or reconstruction of an existing project. Each project or toll road project may be constructed or extended in such sections as the authority may from time to time determine, and shall be separately designated by name or number, which designation shall also apply to any project which is a subsequent improvement, betterment, enlargement, extension, or reconstruction of such project. The construction, maintenance, or operation, of transient lodging facilities on, or adjacent to any such project, or the contracting therefor, shall not be considered as within the definition of "project" or "toll road project". **The term also includes projects on the department's long range comprehensive transportation plan developed under IC 8-23-2-5.**

(5) "Cost" as applied to a toll road project or any part of a toll road project includes:

- (A) the cost of construction, including bridges over or under existing highways and railroads;
- (B) the cost of acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the authority for such construction;
- (C) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved;
- (D) the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements therefor;
- (E) the cost of all machinery and equipment;
- (F) financing charges and capitalized interest;
- (G) the cost of funding any reserves to secure the payment of toll road revenue bonds;
- (H) the cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost and revenues;
- (I) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;
- (J) administrative expense;
- (K) such other expenses as may be necessary or incident to the construction of the project, the financing of such construction, and the placing of the project in operation; and
- (L) the cost of conversion to a toll road project of a state highway or part of a highway accepted as a toll road project under IC 8-23-7.

Any obligation or expense incurred by the department for surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of a project under this chapter or for the repayment of a grant from a federal agency which the authority itself would be authorized to repay under section 5(9) of this chapter in connection with such project or with the issuance of bonds for the payment of the cost of such project, shall be regarded as a part of the cost of such project and shall be reimbursed to the

state out of the proceeds of toll road revenue bonds as authorized.

(6) "Owner" includes all individuals, copartnerships, associations, limited liability companies, or corporations having any title or interest in any property, rights, easements, and interests authorized to be acquired by this chapter.

(7) "Revenues" means all tolls, rentals, gifts, grants, money, and all other funds and property coming into the possession or under the control of the authority by virtue of the terms and provisions of this chapter, except the proceeds from the sale of bonds issued under the provisions of this chapter and earnings thereon. **The term includes tolls established by rules that were adopted by the authority or the Indiana department of transportation, or both, and were published as proposed rules in the Indiana Register on February 1, 2006.**

(8) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(9) "Transient lodging facility" means accommodations for overnight or temporary habitation, including, but not limited to, hotels, motels, motor courts, lodges, and inns, for persons using any toll road project.

(10) "Toll road bonds" means all bonds issued under the provisions of this chapter, including refunding bonds and succeeding lien bonds.

(11) "State highway" means a public road for which the department is responsible under IC 8-23-2."

Page 18, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 10. IC 8-15-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) Subject to IC 8-9.5-8-10, the authority is authorized to provide by a resolution at one (1) time or from time to time for the issuance of toll road revenue bonds of the state for the purpose of paying all or any part of the cost of any one (1) or more toll road projects **or providing funding for projects on the department's long range comprehensive transportation plan developed under IC 8-23-2-5.** The principal of and the interest on such bonds shall be payable solely from an allocation of money from the rural transportation road fund under IC 8-9.5-8-16 or from the revenues or from the proceeds of bonds issued under the provisions of this chapter and earnings thereon, or from all three (3).

(b) The bonds of each issue shall:

- (1) be dated;
- (2) bear interest at such rate or rates as shall be established by the authority;
- (3) mature at such time or times not exceeding forty (40) years from their date or dates, as may be determined by the authority; and
- (4) be made redeemable before maturity at the option of the authority at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds.

(c) The authority shall:

- (1) determine the form of the bonds, including any interest coupons to be attached thereto;
- (2) fix the denomination or denominations of the bonds; and

(3) fix the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state.

(d) The bonds shall be signed by the chairman of the authority or by his facsimile signature, and attested to by the manual or the facsimile signature of the secretary-treasurer of the authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The authority may also provide for the authentication of the bonds by a trustee or fiscal agent.

(e) All bonds issued under the provisions of this chapter shall have and are declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(f) The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(g) The authority may sell such bonds in such manner and for such price as it may determine to be for the best interests for the state, either at a public or private sale.

(h) The proceeds of the bonds of each issue shall be:

(1) used solely for the payment of the cost of the toll road project or projects for which such bonds shall have been issued; and

(2) disbursed in such manner and under such restrictions, if any, as the authority may provide in authorizing the issuance of such bonds or in the trust agreement mentioned securing the same.

(i) If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued.

(j) If the proceeds of the bonds of any issue shall exceed the cost of the toll road project or projects for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds. **However, if the bonds are issued for the purpose of providing funding for projects on the department's long range comprehensive transportation plan developed under IC 8-23-2-5, the proceeds of the bonds shall be deposited in the state highway fund.**

(k) Prior to the preparation of definitive bonds, the authority may under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(l) Except as provided by IC 8-9.5-8-10, bonds may be issued under the provisions of this chapter without:

(1) obtaining the consent of any department, division, commission, board, bureau, or agency of the state; and

(2) any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this chapter."

Page 22, line 29, delete "All" and insert **"Except as otherwise provided by section 9 of this chapter, all"**.

Page 28, line 23, after "Sec. 1." insert **"(a)"**.

Page 28, line 23, after "to" insert **"subsection (b) and"**.

Page 28, between lines 41 and 42, begin a new paragraph and insert:

"(b) The authority may not enter into a public-private agreement concerning the Indiana Toll Road before January 1, 2008."

Page 29, line 3, after "chapter." insert **"However, the authority may not issue a request for proposals for a public-private agreement concerning the Indiana Toll Road under this chapter before January 1, 2008."**

Page 50, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 32. [EFFECTIVE JULY 1, 2006] The general assembly authorizes the Indiana finance authority to issue additional toll road revenue bonds under IC 8-15-2 in a total principal amount not to exceed one billion five hundred million dollars (\$1,500,000,000) for the purpose of providing funding for projects on the department's long range comprehensive transportation plan developed under IC 8-23-2-5 ."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1008 as printed February 24, 2006.)

SIMPSON

Upon request of Senator Simpson the President ordered the roll of the Senate to be called. Roll Call 256: yeas 16, nays 33.

Motion failed.

SENATE MOTION
(Amendment 1008-10)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 50, delete lines 14 through 17.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1008 as printed February 24, 2006.)

HUME

Motion prevailed.

SENATE MOTION
(Amendment 1008-32)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 39, line 25, delete "The" and insert **"(a) As used in this section, "condemn" means any person authorized by Indiana law to exercise the power of eminent domain."**

"(b) Except as provided in subsection (c), the".

Page 39, between lines 28 and 29, begin a new paragraph and insert:

"(c) A condemn may not exercise the power of eminent domain to acquire real property with respect to a toll road project under this article:

(1) from a private entity; and
 (2) with the intent of transferring ownership or control of the real property to another private entity, including a private entity that is a party to a public-private agreement."

(Reference is to EHB 1008 as printed February 24, 2006.)

TALLIAN

Upon request of Senator Tallian the President ordered the roll of the Senate to be called. Roll Call 257: yeas 16, nays 33.

Motion failed.

SENATE MOTION
 (Amendment 1008-33)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 35, line 14, delete "IC 5-22-15-20.5" and insert "**IC 5-22-15-20.5(b)(1), IC 5-22-15-20.5(b)(2) or IC 5-22-15-20.5(b)(3) only**".

(Reference is to EHB 1008 as printed February 24, 2006.)

LANANE

Upon request of Senator Lanane the President ordered the roll of the Senate to be called. Roll Call 258: yeas 18, nays 31.

Motion failed.

SENATE MOTION
 (Amendment 1008-30)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 34, between lines 2 and 3, begin a new paragraph and insert: "**Sec.4. Notwithstanding any contrary provision of this article, the authority may not consent to any assignment, transfer, delegation or sale of any public-private agreement without prior legislative approval.**".

Page 34, line 3, delete "Sec.4." and insert "**Sec.5.**".

Page 34, line 23, delete "Sec.5." and insert "**Sec.6.**".

Page 34, line 27, delete "Sec.6." and insert "**Sec.7.**".

(Reference is to EHB 1008 as printed February 24, 2006.)

LANANE

Upon request of Senator Lanane the President ordered the roll of the Senate to be called. Roll Call 259: yeas 16, nays 33.

Motion failed.

SENATE MOTION
 (Amendment 1008-16)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 32, after line 27, begin a new paragraph and insert: "**(9) Maintaining a minimum Level of Service ("LOS") of LOS C for elements of the Toll Road located in urban areas and a minimum LOS of LOS B for elements of the Toll Road located in rural areas.**".

"Page 34, line 38, after "standards" insert "**including minimum LOS standard as set forth in IC 8-15.5-5-2(9)**".

(Reference is to EHB 1008 as printed February 24, 2006.)

BRODEN

Upon request of Senator Broden the President ordered the roll of the Senate to be called. Roll Call 260: yeas 16, nays 33.

Motion failed.

SENATE MOTION
 (Amendment 1008-18)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 9, line 28, delete "Twenty" and insert "**Ten**".

Page 9, line 28, delete "\$20,000,000" and insert "**(\$10,000,000)**".

Page 9, line 29, delete "the" and insert "**each**".

Page 9, line 30, after "2006," insert "**through the fiscal year beginning July 1, 2015,**

(Reference is to EHB 1008 as printed February 24, 2006.)

ROGERS

Upon request of Senator Rogers the President ordered the roll of the Senate to be called. Roll Call 261: yeas 18, nays 31.

Motion failed.

SENATE MOTION
 (Amendment 1008-8)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 7, delete lines 33 through 36.

Page 7, line 37, delete "(c)" and insert "**(b)**".

Page 8, line 1, delete "(d)" and insert "**(c)**".

(Reference is to EHB 1008 as printed February 24, 2006.)

TALLIAN

Upon request of Senator Tallian the President ordered the roll of the Senate to be called. Roll Call 262: yeas 16, nays 33.

Motion failed.

SENATE MOTION
 (Amendment 1008-22)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 1, between lines 7 and 8, begin a new paragraph and insert: "**SECTION 2. IC 4-15-2-32.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32.5. (a) This section applies to employees of the state who are terminated from employment as a result of:**

(1) a lease, or other transfer, of state property or property of a body corporate and politic to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state functions.

(b) Notwithstanding any other law or rule, an employee who is terminated from employment as described in subsection (a) is entitled to a preference under this chapter for reemployment with the state in another position equivalent in benefits, pay, and working conditions, including the locale, to the position the individual held before the individual was terminated."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1008 as printed February 24, 2006.)

ROGERS

Upon request of Senator Rogers the President ordered the roll of the Senate to be called. Roll Call 263: yeas 16, nays 33.

Motion failed.

SENATE MOTION
(Amendment 1008-11)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 1, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 2. IC 4-15-2-32.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 32.5. (a) Appointing authorities (as defined in IC 4-15-2-2.1 and IC 4-15-2.5-1) shall notify the director before February 15 and August 15 of each year of all employees who were terminated from employment as the result of:**

- (1) a lease, or other transfer, of state property or property of a body corporate and politic to a nongovernmental entity; or**
- (2) a contractual arrangement with a nongovernmental entity to perform certain state functions.**

(b) The notification required under subsection (a) must include the information required by subsection (c). Before April 1 and October 1 of each year, the director shall compile and make available for public inspection a report concerning employees who have been terminated from employment as described in subsection (a).

(c) The notification and report required by subsections (a) and (b) must contain the following information:

- (1) The salary of each employee who was terminated.**
- (2) The reason for the termination.**
- (3) If the functions the employee was performing are now being performed under a contractual arrangement with a nongovernmental entity, the cost of the contract, including the specific salary for each individual performing the employee's functions under the contract.**
- (4) The total number of state employees terminated from employment as described in subsection (a) for the six (6) months covered by the notification and report."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1008 as printed February 24, 2006.)

R. YOUNG

Upon request of Senator R. Young the President ordered the roll of the Senate to be called. Roll Call 264: yeas 16, nays 33.

Motion failed.

SENATE MOTION
(Amendment 1008-28)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 8, between lines 20 and 21, begin a new line block indented and insert:

"(1) funding training programs to develop the necessary workforce in Indiana to implement the entire range of projects contemplated under this chapter, IC 8-15-2, IC 8-15-3, and IC 8-15.5;"

Page 8, line 21, delete "(1)" and insert "(2)".

Page 8, line 23, delete "(2)" and insert "(3)".

Page 9, between lines 13 and 14, begin a new line block indented and insert:

"(1) The following amounts to the treasurer of state in each state fiscal year beginning after June 30, 2006:

(A) One million dollars (\$1,000,000) for use by the department of workforce development for the purposes of the Indiana plan.

(B) The greater of:

- (i) three hundred percent (300%) of the amount expended by the department of workforce development in the building trade grants program in the immediately preceding state fiscal year; or**
- (ii) five million three hundred thousand dollars (\$5,300,000);**

for use by the department of workforce development for the purposes of the building trades grant program.

Money distributed under this subdivision is annually appropriated for the purposes of the distribution. Money distributed under this subdivision shall be treated as supplemental to all other money available for the Indiana plan and the building trades grant program and may not be the basis for reducing funding from other sources. The unencumbered balance of an amount distributed under this subdivision at the end of a state fiscal year does not revert to the state general fund for any other purpose and remains available for the purposes of the distribution in subsequent state fiscal years."

Page 9, line 14, delete "(1)" and insert "(2)".

Page 9, line 28, delete "(2)" and insert "(3)".

Page 9, line 37, delete "(3)" and insert "(4)".

Page 10, line 4, delete "(4)" and insert "(5)".

Page 10, line 14, delete "(5)" and insert "(6)".

Page 10, line 19, delete "(6)" and insert "(7)".

Page 47, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 26. IC 22-4.1-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 17. Major Moves Construction Fund Training Programs

Sec. 1. The department shall invest the money distributed under IC 8-14-14-6(a)(1) in training programs that develop the Indiana workforce that is needed to implement the entire range of projects contemplated under IC 8-14-14, IC 8-15-2, IC 8-15-3, and IC 8-15.5.

Sec. 2. The department shall carry out section 1 of this chapter through the department's:

- (1) Indiana plan grant program; and
- (2) building trades grant program.

Sec. 3. The department shall expedite the:

- (1) admission of applicants to; and
- (2) delivery of training through;

the existing educational and training infrastructure in Indiana to ensure that a sufficient number of skilled workers is readily available in Indiana to provide the workforce needed for the projects that are undertaken under IC 8-14-14, IC 8-15-2, IC 8-15-3, and IC 8-15.5."

Page 50, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 31. [EFFECTIVE UPON PASSAGE] The department of workforce development may adopt temporary rules in the manner provided by IC 4-22-2-37.1 for the adoption of emergency rules to carry out the purposes of IC 22-4.1-17, as added by this act. A temporary rule adopted under this SECTION expires on the earliest of the following:

- (1) The date the temporary rule is superseded by another temporary rule adopted under this SECTION.
- (2) The date the temporary rule is superseded by a rule adopted under IC 4-22-2.
- (3) December 31, 2007."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1008 as printed February 24, 2006.)

LANANE

Upon request of Senator Breaux the President ordered the roll of the Senate to be called. Roll Call 265: yeas 16, nays 33.

Motion failed.

SENATE MOTION (Amendment 1008-12)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 5, between lines 15 and 16, begin a new paragraph and insert: "SECTION 3. IC 5-10-6-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005 (RETROACTIVE)]: **Sec. 2. (a) This section applies to employees of the state who elect under IC 5-10.3-6-8.7(g)(2) to receive a distribution under this section.**

(b) As used in this section, "salary" means:

- (1) the basic salary earned by and paid to the employee; plus**
- (2) the amount that would have been a part of the basic salary earned and paid except for the employee's salary reduction agreement established under Section 125 or 457 of the Internal Revenue Code.**

(c) An employee who is covered by IC 5-10.3-6-8.7(f) may elect, not later than sixty (60) days after the termination date established under IC 5-10.3-6-8.7(f), to receive a distribution equal to the employee's salary for the fifty-two (52) weeks preceding the employee's termination date established under IC 5-10.3-6-8.7(f).

(d) A distribution under this section is payable as a lump sum not later than one hundred twenty (120) days after the date the employee makes the election under subsection (c).

(e) The amounts that the state is required to pay under this section must come from the following sources:

- (1) If the state receives monetary payments under the lease or contractual arrangement described in IC 5-10.3-6-8.7(a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to pay under this section.**
- (2) If the state does not receive any monetary payments under the lease or contractual arrangement described in IC 5-10.3-6-8.7(a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in IC 5-10.3-6-8.7.**
- (3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to pay under this section, the governor shall request that the general assembly appropriate the amount necessary to fully fund the state's required payments under this section in the next biennial state budget.**

(f) The state personnel department may adopt reasonable procedures and standards to implement this section."

Page 5, line 31, delete "(i)," and insert "(j)".

Page 6, line 17, delete "(g)." and insert "(h)".

Page 6, between lines 17 and 18, begin a new paragraph and insert:

"(g) A member who is covered by subsection (f) may elect to receive:

- (1) creditable service under subsection (h); or**
- (2) a distribution under IC 5-10-6-2."**

Page 6, line 18, delete "(g)" and insert "(h)".

Page 6, line 25, delete "(h)" and insert "(i)".

Page 6, line 36, delete "(h)" and insert "(i)".

Page 6, line 37, delete "(g)" and insert "(h)".

Page 7, line 3, delete "(g)." and insert "(h)".

Page 7, line 11, delete "(g)," and insert "(h)".

Page 7, line 14, delete "(g)" and insert "(h)".

Page 7, line 15, delete "(i)" and insert "(j)".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1008 as printed February 24, 2006.)

BOWSER

Upon request of Senator Bowser the President ordered the roll of the Senate to be called. Roll Call 266: yeas 15, nays 33.

Motion failed.

SENATE MOTION (Amendment 1008-17)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 34, line 39, delete "Unless otherwise provided by federal law, the" and insert "**The**".

Page 34, line 41, delete "not".

March 1, 2006

Senate 685

Page 35, line 1, delete "or" and insert "**and**".
(Reference is to EHB as printed February 24, 2006.)

MRVAN

Upon request of Senator Mrvan the President ordered the roll of the Senate to be called. Roll Call 267: yeas 16, nays 33.

Motion failed.

SENATE MOTION
(Amendment 1008-5)

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 32, after line 27, begin a new paragraph and insert:

(9) Procedures that preclude the operator from using rock salt or other anti-icer or de-icer chemical application on the toll road that has been purchased from a company whose principle place of business is outside the state of Indiana.

(Reference is to EHB 1008 as printed February 24, 2006.)

CRAYCRAFT

Motion failed. The bill was ordered engrossed.

7:02 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 7:29 p.m., with the President of the Senate in the Chair.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed Senate Bills 153, 161, 168, 193, 202, 206, 234, 259, 260, 264, 266, 284, 286, 297, and 300 with amendments and the same are herewith returned to the Senate for concurrence.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed, without amendments, Engrossed Senate Bills 169, 173, 191, 192, 201, 205, 208, 229, and 275 and the same are herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

**REPORT OF THE
PRESIDENT PRO TEMPORE**

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 12:

Conferees: Long, Chair and Mrvan
Advisors: Wyss and Lanane

GARTON
Date: 3/1/2006
Time: 2:12 p.m.

Report adopted.

SENATE MOTION

Madam President: I move that Senator Craycraft be removed as cosponsor of Engrossed House Bill 1080.

CRAYCRAFT

Motion prevailed.

**ENGROSSED HOUSE BILLS
ON SECOND READING**

Engrossed House Bill 1018

Senator Hershman called up Engrossed House Bill 1018 for second reading. The bill was reread a second time by title.

SENATE MOTION
(Amendment 1018-6)

Madam President: I move that Engrossed House Bill 1018 be amended to read as follows:

Page 1, line 10, delete "." and insert "**in which:**

(i) water service is a purpose of the district as of January 1, 2006; and

(ii) the total number of freeholders provided water service by the district is less than four thousand (4,000)."

(Reference is to EHB 1018 as reprinted February 17, 2006)

LAWSON

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1099

Senator Weatherwax called up Engrossed House Bill 1099 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1099-7)

Madam President: I move that Engrossed House Bill 1099 be amended to read as follows:

Page 2, strike lines 16 through 19.

Page 2, line 20, strike (B) and insert "**(A)**".

Page 2, line 23, strike "(C)" and insert "**(B)**".

Page 2, line 25, strike "(D)" and insert "**(C)**".

Page 3, line 29, delete "fireworks and" and insert "**fireworks, fireworks referenced in section 8(a) of this chapter, and**".

Page 5, between lines 12 and 13, begin a new paragraph and insert:

""Responding fire department" means the paid fire department or volunteer fire department that renders fire protection services to a political subdivision."

Delete pages 9 through 16.

Page 17, delete lines 1 through 22, begin a new line block indented and insert:

"and land use rules.

(7) Sales of fireworks may be made from the tent for not more than forty-five (45) days in a year.

(8) The weight of consumer fireworks in a tent may not exceed three thousand (3,000) gross pounds of consumer fireworks.

(9) A retailer that legally operated a tent with a registration in 2005 may continue operation in a tent in 2006 and the following years. A registration under section 5(b)(3) of this chapter is required for operation in 2006 and following years.

(10) The retailer holds a valid registration under section 5(b)(3) of this chapter. For purposes of this subdivision, a retailer includes a resident wholesaler who supplied consumer fireworks to an applicant for a tent registration in 2005.

(b) A retailer may sell consumer fireworks from a Class 1 structure (as defined in IC 22-12-1-4) that:

(1) complied with the rules for a B-2 or M building occupancy before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1:

(A) in which consumer fireworks were sold or stored on or before July 4, 2003; and

(B) in which no subsequent intervening nonfireworks sales or storage use has occurred;

(2) complies with the rules for an H-3 building occupancy under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1, or the equivalent occupancy classification adopted by subsequent rules of the fire prevention and building safety commission;

(3) complied with the rules for a B-2 or M building occupancy before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1;

(A) in which 1.4G fireworks were sold or stored on or before July 4, 2003;

(B) in a location at which the retailer was registered as a resident wholesaler in 2005; and

(C) in which the retailer's primary business is not the sale of consumer fireworks; or

(4) complies with the rules adopted after July 3, 2003, by the fire prevention and building safety commission established under IC 22-12-2-1 for an M building occupancy under the Indiana building code.

A registration under section 11(a) of this chapter is required for operation in 2006 and following years.

(c) This subsection does not apply to a structure identified in subsection (b)(1), (b)(2), (b)(3), or (b)(4). A retailer may sell consumer fireworks from a structure under the following conditions:

(1) The structure must be a Class 1 structure used for the sale and storage of consumer fireworks.

(2) The sales site must comply with all applicable local zoning and land use rules.

(3) The weight of consumer fireworks in the structure may not exceed three thousand (3,000) gross pounds of consumer

fireworks.

(4) The retailer holds a valid registration under section 11(a) of this chapter.

(5) A retailer that legally operated from a structure with a registration in 2005 may continue in operation in the structure in 2006 and the following years. A registration under section 11(a) of this chapter is required for operation in 2006 and following years.

(d) The state fire marshal or a member of the division of fire and building safety staff shall, under section 9 of this chapter, inspect tents and structures in which common fireworks are sold. The state fire marshal may delegate this responsibility to a responding fire department with jurisdiction over the tent or structure subject to the policies and procedures of the state fire marshal.

(e) A retailer shall file an application for each retail location on a form to be provided by the state fire marshal.

(f) This chapter does not limit the quantity of fireworks that may be sold from any Class I structure that complies with the rules of the fire prevention and building safety commission in effect before May 21, 2003.

SECTION 6. IC 22-11-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The state fire marshal shall remove at the expense of the owner, all stocks of fireworks or combustibles possessed, transported, or delivered in violation of this chapter.

(b) The state fire marshal shall stop the shipments and sale of fireworks, novelties, and trick noisemakers unless, prior to shipment into this state for sale, the manufacturer, wholesaler, importer, or distributor of the fireworks, novelties, and trick noisemakers submits to the state fire marshal:

(1) a complete description of each item proposed to be shipped into Indiana;

(2) a written certification that the items are manufactured in accordance with section 1 of this chapter; and

(3) an annual registration fee of one thousand dollars (\$1,000).

The registration fee shall be collected by the state fire marshal and deposited in the fire and building services fund as set forth in IC 22-12-6-1(c).

If upon inspection the state fire marshal finds that this chapter has been complied with, an annual certificate of compliance shall be issued to the manufacturer, wholesaler, importer, or distributor. An annual certificate of compliance **may not be applied for after June 15 of a year and** expires December 31 of the year ~~during in~~ which the certificate is issued. Each manufacturer, wholesaler, importer, or distributor must obtain a certificate of compliance. The certificate is not transferable. ~~except that A retailer that offers the items for sale to the public is entitled to receive a certified copy of the certificate from the manufacturer, wholesaler, importer, or distributor from which the retailer purchases the items.~~ A certified copy of the certificate of compliance must be posted in each location where the items are offered for sale to the public. If upon inspection the state fire marshal finds that this chapter has not been complied with, the state fire marshal shall refuse to issue a certificate of compliance and state the reasons for the refusal. A copy of the order denying the issuance of a certificate of compliance and the reasons shall be forwarded to the manufacturer, wholesaler, importer, or distributor. The state fire marshal may revoke any certificate of compliance issued to any

manufacturer, wholesaler, importer, or distributor if the holder of the certificate has violated this chapter.

(c) All fireworks, novelties, and trick noisemakers shipped into Indiana, or manufactured and sold in Indiana, must have distinctly and durably painted, stamped, printed, or marked on the package, box, or container in which the items are enclosed the exact number of pieces in the container.

(d) It is unlawful for a manufacturer, wholesaler, importer, or distributor to sell at wholesale, offer to sell at wholesale, or ship or cause to be shipped into Indiana fireworks, novelties, or trick noisemakers unless the manufacturer, wholesaler, importer, or distributor has been issued and holds a valid certificate of compliance issued under subsection (b). This subsection applies to nonresidents and residents of Indiana.

SECTION 7. IC 22-11-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A person who **recklessly, knowingly, or intentionally** violates ~~section 4(c); section 2(f), 4.5, 5(c), 5(d), 7, or 8~~ **8(a), 8(c), 10, or 11** (b) of this chapter commits a Class A misdemeanor.

(b) **A person who ignites, discharges, or uses consumer fireworks at a site other than:**

- (1) **a special discharge location;**
- (2) **the property of the person; or**
- (3) **the property of another who has given permission to use the consumer fireworks;**

commits a Class C infraction. However, if a person recklessly, knowingly, or intentionally takes an action described in this subsection not later than five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(c) **A person less than eighteen (18) years of age who:**

- (1) **possesses a:**
 - (A) **firework;**
 - (B) **novelty; or**
 - (C) **trick noisemaker;**

other than those set forth in section 8(a) of this chapter; or
 (2) **uses a firework when an adult is not present and responsible at the location of the use;**

commits a Class C infraction. However, if a person possesses as described in subdivision (1) or uses as described in subdivision (2) not later than five (5) years after a previous possession or use by the person as described in this subsection, whether or not there has been a judgment that the person committed an infraction in the previous possession or use, the person commits a delinquent act under IC 31-37.

(d) **A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation causes harm to the property of a person commits a Class A misdemeanor.**

(e) **A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in serious bodily injury to a person v commits a Class D felony.**

(f) **A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in the death of a person commits a Class C felony.**

(g) **A person who knowingly fails to collect or remit to the state the public safety fees due under section 11 of this chapter**

commits a Class D felony.

SECTION 8. IC 22-11-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] 1: Sec. 7. (a) A retailer selling fireworks at one (1) or more temporary stands must obtain a fireworks stand retail sales permit, referred to in this section as a "permit", from the state fire marshal.

(b) An application for a permit must be made before June 1 of each year and must require that at least the following information be supplied by the retailer:

- (1) The retailer's retail merchant certificate number or proof of application for a certificate number.
- (2) The location of each **retail sales** stand.

The state fire marshal shall, within seven (7) days after the receipt of an application for a permit, either issue the permit or notify the applicant of the denial of the permit.

(c) The retailer must pay to the state fire marshal an annual permit fee set under IC 22-12-6-8. If the state fire marshal approves an application for a permit, ~~he~~ **the state fire marshal** shall issue a permit to the retailer. The permit expires one (1) year after the date of issuance.

(d) The permit shall be posted by the retailer at the **retail sales** stand so that it is easily seen by the public. However, the state fire marshal's issuance of a permit does not constitute approval of the fireworks offered for sale by the retailer. The retailer is responsible for determining that all fireworks which ~~he~~ **the retailer** offers for sale conform to applicable law.

(e) At each **retail sales** stand, the retailer shall provide:

- (1) a posted certificate of compliance, including a descriptive list of approved fireworks; and
- (2) a ~~supervisor salesperson~~ **supervisor salesperson** who is at least ~~sixteen (16)~~ **eighteen (18)** years of age.

(f) Fireworks may not be sold at retail from ~~trucks, vans, or automobiles;~~ **a motor vehicle (as defined in IC 9-13-2-105).**

SECTION 9. IC 22-11-14-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A person shall not sell at retail, ~~or~~ offer for sale at retail, **or deliver** any fireworks, novelties, or trick noisemakers **to a person less than eighteen (18) years of age** other than the following:

- (1) Dipped sticks or wire sparklers. However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.
- (2) Cylindrical fountains.
- (3) Cone fountains.
- (4) Illuminating torches.
- (5) Wheels.
- (6) Ground spinners.
- (7) Flitter sparklers.
- (8) Snakes or glow worms.
- (9) Smoke devices.
- (10) Trick noisemakers, which include:
 - (A) Party poppers.
 - (B) Booby traps.
 - (C) Snappers.
 - (D) Trick matches.
 - (E) Cigarette loads.
 - (F) Auto burglar alarms.

(b) A retailer or wholesaler of consumer fireworks may sell consumer fireworks to a person at least eighteen (18) years of age.

(c) An individual who sells fireworks must be at least eighteen (18) years of age.

(d) The fire prevention and building safety commission may adopt rules under IC 4-22-2 establishing procedures to ensure compliance with the age limitations set forth in this section.

SECTION 10. IC 22-11-14-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. A person is strictly liable for death, bodily injury, or property damage caused by that person's use of consumer fireworks.**

SECTION 11. IC 22-11-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) Each interstate wholesaler shall keep a record of each sale of special fireworks. not approved for sale in Indiana. This record must include:**

- (1) the purchaser's name;
- (2) the purchaser's address; and
- (3) the date of the sale.

These records shall be kept for three (3) years and be available for inspection by the fire marshal.

(b) Each resident wholesaler shall post in a prominent location in the wholesaler's place of business a sign that reads as follows:

"Under Indiana law, a resident wholesaler of fireworks may sell fireworks not approved for sale in Indiana only to other resident wholesalers and to purchasers who provide a written and signed assurance that the fireworks are to be shipped out of Indiana within five (5) days of the date of sale. A purchaser who provides a written and signed assurance that fireworks purchased are to be shipped out of Indiana within five (5) days of the date of sale and who then sells the fireworks in Indiana or uses them in Indiana commits a Class A misdemeanor, which is punishable by imprisonment for up to one (1) year and a fine of up to five thousand dollars (\$5,000)."

The state fire marshal shall provide interstate wholesalers with signs for the purposes of this subsection:

SECTION 12. IC 22-11-14-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2006]: **Sec. 11. (a) A retailer may not sell consumer fireworks until the retailer has:**

- (1) filed the application required under section 4.5(e) of this chapter with the state fire marshal for each location from which the retailer proposes to sell the consumer fireworks, which must be filed on an annual basis; and
 - (2) paid an accompanying registration fee of:
 - (A) one thousand dollars (\$1,000) for the first location if a fee under section 5(b)(3) of this chapter has not been paid;
 - (B) five hundred dollars (\$500) for each additional sales location in a tent; and
 - (C) two hundred dollars (\$200) for each additional sales location in a structure;
- from which the retailer proposes to sell the consumer fireworks.

Upon receipt of the completed application form, the accompanying fee and if required, the affidavit under subsection

(b), the state fire marshal shall issue a certificate of compliance to the retailer for each sales location.

(b) A person seeking a certificate of compliance authorizing the sale of consumer fireworks at retail from a structure identified in section 5(b)(1), 5(b)(2), 5(b)(3), or 5(b)(4) of this chapter, or from a tent under section 5(a) of this chapter shall submit with the application:

- (1) an affidavit executed by a responsible party with personal knowledge, establishing that consumer fireworks were sold at retail from a structure at the same location as of the dates set forth in section 5(b)(1), 5(b)(2), 5(b)(3), or 5(b)(4) of this chapter, or from a tent under section 5(a) of this chapter; and

- (2) proof of sales of consumer fireworks from that location.

(c) A person may not sell consumer fireworks at retail if a certificate of compliance from the state fire marshal has not been issued for the location at which the consumer fireworks will be sold.

(d) A certificate of compliance issued to a retailer of consumer fireworks is not transferable.

SECTION 13. IC 22-11-14-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: **Sec. 12. (a) A user fee, known as the public safety fee, is imposed on retail transactions made in Indiana of fireworks.**

(b) The person who acquires fireworks in a retail transaction is liable for the public safety fee on the transaction and, except as otherwise provided in this chapter, shall pay the public safety fee to the retailer as a separate added amount to the consideration in the transaction. The retailer shall collect the public safety fee as an agent for the state.

(c) The public safety fee shall be deposited in the state general fund.

(d) The department of state revenue shall adopt rules under IC 4-22-2 necessary for the collection of the public safety fee monies from retailers as described in subsections (b) and (c).

SECTION 14. IC 22-11-14-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: **Sec. 13. (a) The public safety fee is measured by the gross retail income received by a retailer in a retail unitary transaction of fireworks and is imposed at the following rates:**

PUBLIC SAFETY FEE	GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION		
\$ 0		less than	\$0.25
\$ 0.01	at least \$ 0.25	but less than	\$0.50
\$ 0.02	at least \$ 0.50	but less than	\$0.75
\$ 0.03	at least \$ 0.75	but less than	\$1.00
\$ 0.04	at least \$ 1.00		

On a retail unitary transaction in which the gross retail income received by the retail merchant is at least one dollar (\$1), the public safety fee is four percent (4%) of that gross retail income.

(b) If the public safety fee computed under subsection (a) results in a fraction of one-half cent (\$0.005) or more, the amount of the public safety fee shall be rounded to the next additional cent.

SECTION 15. IC 22-11-14-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: **Sec. 14. An individual who:**

- (1) is an individual retailer or is an employee, an officer, or a member of a corporate or partnership retailer; and
- (2) has a duty to remit the public safety fee as described in section 11 of this chapter to the department of state revenue;

holds the public safety fees collected in trust for the state and is personally liable for the payment of the public safety fee money to the state.

SECTION 16. IC 22-11-14-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15. The fire prevention and building safety commission and the department of state revenue shall adopt rules under IC 4-22-2 to carry out this chapter.**

SECTION 17. IC 35-47-7-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) If:**

- (1) a practitioner (as defined in IC 25-1-9-2) initially treats a person for an injury and identifies the person's injury as resulting from fireworks or pyrotechnics, the practitioner; or
- (2) a hospital or outpatient surgical center initially treats a person for an injury and the administrator of the hospital or outpatient surgical center identifies the person's injury as resulting from fireworks or pyrotechnics, the administrator or the administrator's designee;

shall report the case to the state health data center of the state department of health not more than five (5) business days after the time the person is treated. The report may be made in writing on a form prescribed by the state department of health.

(b) A person submitting a report under subsection (a) shall make a reasonable attempt to include the following information:

- (1) The name, address, and age of the injured person.
- (2) The date and time of the injury and the location where the injury occurred.
- (3) If the injured person was less than eighteen (18) years of age at the time of the injury, whether an adult was present when the injury occurred.
- (4) Whether the injured person consumed an alcoholic beverage within three (3) hours before the occurrence of the injury.
- (5) A description of the firework or pyrotechnic that caused the injury.
- (6) The nature and extent of the injury.

(c) A report made under this section is confidential for purposes of IC 5-14-3-4(a)(1).

(d) The state department of health shall compile the data collected under this section and submit a report of the compiled data to the legislative council in an electronic format under IC 5-14-6 not later than December 31 of each year.

SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 22-11-14.5-2; IC 35-47-7-6.

SECTION 18. [EFFECTIVE UPON PASSAGE] **The department of homeland security shall report to the budget committee by July 1, 2006, on the feasibility of the following:**

(1) **Creating a regional program to:**

- (A) train public safety service providers under IC 10-19-9-3; and
- (B) provide advanced training programs in public safety and homeland security matters under IC 10-19-9-4.

The report must set out the need for the training, identify possible locations where training could take place, provide an estimate of the costs for providing such training, and include other things the department determines to be relevant.

(2) **Establishing a state disaster relief fund to provide:**

- (A) matching financial assistance to state agencies and political subdivisions under any federal program; and
- (B) direct aid to individuals, families, or communities if an emergency event does not receive a presidential major disaster declaration.

SECTION 19. [EFFECTIVE UPON PASSAGE] **There is appropriated from the fees collected under IC 22-11-14-11, as added by this act, one million dollars (\$1,000,000) to the department of homeland security to provide regional training for public safety service providers or advanced training programs during the period beginning July 1, 2006, and ending June 30, 2007. Funds appropriated by this SECTION may be allotted by the budget agency after review by the budget committee.**

SECTION 20. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act, the fire prevention and building safety commission shall carry out the duties imposed upon it by this act with respect to the matters referred to in IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act, under interim written guidelines approved by the state fire marshal.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are respectively adopted under IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act.
- (2) December 31, 2007.

SECTION 21. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-11-14-12(d) and IC 22-11-14-15, both as added by this act, the department of state revenue shall carry out the duties imposed upon it by this act with respect to the matters referred to in IC 22-11-14-12(d) and IC 22-11-14-15, both as added by this act, under interim written guidelines approved by the commissioner of the department of state revenue.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are respectively adopted under IC 22-11-14-12(d) and IC 22-11-14-15, both as added by this act.
- (2) December 31, 2007."

SECTION 22. **An emergency is declared for this act."**

(Reference is to EHB 1099 as printed February 24, 2006.)

WEATHERWAX

Motion prevailed.

SENATE MOTION
(Amendment 1099-3)

Madam President: I move that Engrossed House Bill 1099 be amended to read as follows:

Page 3, delete lines 6 through 7.

Page 5, between lines 2 and 3, begin a new paragraph and insert: **"Municipality" has the meaning set forth in IC 36-1-2-11.**

Page 5, delete lines 40 through 42.

Page 7, line 14, after "section" delete ".".

Page 7, line 14, after "misdemeanor." insert **"or under rules adopted under section 3.5 of this chapter."**

Page 7, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 3. IC 22-11-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The governing body of the municipality shall require a certificate of insurance conditioned for the payment of all damages which may be caused either to a person or persons in an amount of not less than ten thousand dollars (\$10,000) and to property in an amount of not less than ten thousand dollars (\$10,000), by reason of the ~~licensed public display permitted under section 2 of this chapter~~, and arising from any acts of the ~~licensee~~, **his permittee or the permittee's** agents, employees, or subcontractors. However, the governing body of the municipality may in its discretion require additional amounts of insurance coverage not to exceed one hundred thousand dollars (\$100,000) for damages caused to a person or persons, or one hundred thousand dollars (\$100,000) for damage to property.

(b) A person who fails to obtain a certificate of insurance required under subsection (a) commits a Class A misdemeanor."

Page 7, line 18, delete "may" and insert **"shall"**.

Page 7, line 19, delete "the chief of a municipal or" and insert **"consumer and special fireworks may be purchased, transported, delivered, or possessed for purposes of a public display of fireworks by rules adopted under section 2(a)(1) of this chapter by a person who has been issued a permit by rules adopted under section 2(a)(2) of this chapter."**

Page 7, delete lines 20 through 22.

Page 7, line 28, after "(A)" insert **"fireworks"**.

Page 7, line 28, after "wholesale" insert ";".

Page 7, line 28, strike "fireworks not prohibited by this chapter;".

Page 7, line 29, reset in roman "approved for sale in Indiana".

Page 7, line 29, after "Indiana" insert ";".

Page 7, line 29, strike "if".

Page 7, line 30, strike "they are to be".

Page 7, line 31, delete "used:".

Page 7, delete lines 32 through 36.

Page 8, delete lines 29 through 42.

Delete page 9.

Page 10, delete lines 1 through 8.

Page 10, line 23, delete ":".

Page 10, line 24, delete "(A)".

Page 10, run in lines 23 through 24.

Page 10, line 24, after "(\$1,000)" insert ".".

Page 10, line 24, delete "for the first location;".

Page 10, delete lines 25 through 32.

Page 11, line 26, delete "4.5,".

Page 11, line 26, reset in roman "8".

Page 11, line 26, after "8" insert ",".

Page 11, line 26, delete "8(a), 8(c),".

Page 11, line 29, delete "8(a)" and insert **"8"**.

Page 11, delete lines 30 through 34.

Page 11, delete lines 41 through 42.

Page 12, delete lines 1 through 28.

Page 12, line 31, after "temporary" insert **"retail sales"**.

Page 12, line 39, after "each" insert **"retail sales"**.

Page 13, line 5, before "stand" insert **"retail sales"**.

Page 13, line 10, after "each" insert **"retail sales"**.

Page 13, delete lines 16 through 42, begin a new paragraph and insert:

"SECTION 9. IC 22-11-14-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **Except as provided by rule adopted under the authority of section 3.5 of this chapter**, a person shall not sell at retail, or offer for sale at retail, any fireworks, novelties, or trick noisemakers other than the following:

(1) Dipped sticks or wire sparklers. However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.

(2) Cylindrical fountains.

(3) Cone fountains.

(4) Illuminating torches.

(5) Wheels.

(6) Ground spinners.

(7) Flitter sparklers.

(8) Snakes or glow worms.

(9) Smoke devices.

(10) Trick noisemakers, which include:

(A) Party poppers.

(B) Booby traps.

(C) Snappers.

(D) Trick matches.

(E) Cigarette loads.

(F) Auto burglar alarms."

Page 14, delete lines 1 through 9.

Page 14, line 12, delete "special".

Page 14, line 13, after "fireworks" delete ".".

Page 14, line 13, reset in roman "not approved for sale in Indiana".

Page 14, delete lines 34 through 42.

Delete pages 15 through 16.

Page 17, delete lines 1 through 22, begin a new paragraph and insert:

"SECTION 11. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 22-11-14-2(a), as amended by this act, and IC 22-11-14-3.5, as added by this act, the fire prevention and building safety commission shall carry out the duties imposed upon it by IC 22-11-14-2(a), as amended by this act, and IC 22-11-14-3.5, as added by this act, under interim written guidelines approved by the state fire marshal.**

(b) **This SECTION expires the earlier of the following:**

(1) **The date rules are adopted under IC 22-11-14-2(a), as amended by this act and IC 22-11-14-3.5, as added by this act.**

(2) December 31, 2007."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1099 as printed February 24, 2006.)

ZAKAS

The Chair ordered a division of the Senate. Yeas 15, nays 31.

Motion failed.

SENATE MOTION
(Amendment 1099-4)

Madam President: I move that Engrossed House Bill 1099 be amended to read as follows:

Page 5, between lines 2 and 3, begin a new paragraph and insert:

"Municipality" has the meaning set forth in IC 36-1-2-11."

Page 12, line 28, delete "11" and insert "12".

Page 14, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 12. IC 22-11-14-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. (a) Notwithstanding any other provision of this chapter, a:**

(1) county or municipality may adopt an ordinance; or

(2) township may adopt a resolution;

concerning the sale, possession, or use of fireworks.

(b) An ordinance or a resolution adopted under this section:

(1) may limit or prohibit the sale, possession, or use of fireworks in the county, municipality, or township; and

(2) may not be more lenient than a rule adopted by a state agency concerning the sale, possession, or use of fireworks."

Page 14, line 34, delete "IC 22-11-14-11" and insert "IC 22-11-14-12".

Page 14, line 36, delete "11." and insert "12.".

Page 15, line 7, delete "and in" and insert ".".

Page 15, line 8, delete "section 13 of this chapter."

Page 15, line 9, delete "IC 22-11-14-12" and insert "IC 22-11-14-13".

Page 15, line 11, delete "12." and insert "13.".

Page 15, line 36, delete "11" and insert "12(b)".

Page 17, line 16, delete "IC 22-11-14-11," and insert "IC 22-11-14-12,".

Page 17, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 21. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act, the fire safety and building commission shall carry out the duties imposed upon it by this act with respect to the matters referred to in IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act, under interim written guidelines approved by the state fire marshal.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act.

(2) December 31, 2007.

SECTION 22. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-11-14-12(d) and IC 22-11-14-15, both as added by this act, the department of state revenue shall carry out the duties imposed upon it by this act with respect to the matters referred to in IC 22-11-14-12(d) and IC 22-11-14-15, both as added by this act, under interim written guidelines approved by the commissioner of the department of state revenue.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 22-11-14-12(d) and IC 22-11-14-15, both as added by this act.

(2) December 31, 2007."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1099 as printed February 24, 2006.)

ZAKAS

The Chair ordered a division of the Senate. Yeas 21, nays 26.

Motion failed.

SENATE MOTION
(Amendment 1099-1)

Madam President: I move that Engrossed House Bill 1099 be amended to read as follows:

Page 16, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 16. IC 22-11-14-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. If:**

(1) a court awards a person damages for personal injury, property damage, or other loss due to the negligent use of fireworks; and

(2) the person who caused the injury, damage, or loss is unable to pay, through insurance or otherwise, the judgment in full;

the retailer, wholesaler, importer, or manufacturer, or a combination of the retailer, wholesaler, importer, or manufacturer, is jointly and severally liable to the person who suffered the loss for the amount of the unsatisfied judgment."

Page 17, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 21. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act, the fire safety and building commission shall carry out the duties imposed upon it by this act with respect to the matters referred to in IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act, under interim written guidelines approved by the state fire marshal.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act.

(2) December 31, 2007.

SECTION 22. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-11-14-11(d) and IC 22-11-14-15, both as

added by this act, the department of state revenue shall carry out the duties imposed upon it by this act with respect to the matters referred to in IC 22-11-14-11(d) and IC 22-11-14-15, both as added by this act, under interim written guidelines approved by the commissioner of the department of state revenue.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 22-11-14-11(d) and IC 22-11-14-15, both as added by this act.
- (2) December 31, 2007."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1099 as printed February 24, 2006.)

DILLON

Upon request of Senator Garton the President ordered the roll of the Senate to be called. Roll Call 268: yeas 12, nays 37.

Motion failed.

SENATE MOTION (Amendment 1099-6)

Madam President: I move that Engrossed House Bill 1099 be amended to read as follows:

Page 16, between lines 2 and 3, begin a new paragraph and insert:
"SECTION 16. IC 22-11-14-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. Fireworks are, for purposes of IC 34-20, unreasonably dangerous products. A manufacturer of consumer fireworks is strictly liable for any actual monetary damages arising from the death, bodily injury, or property damage caused by the use of the manufacturer's product in accordance with the provisions of IC 34-20-2-3 and IC 34-20-2-4 without regard to warnings or defective condition. Nothing in this section is intended to modify any other provisions of tort or negligence law or to otherwise modify the legal liabilities of any party.**"

Page 17, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 21. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act, the fire safety and building commission shall carry out the duties imposed upon it by this act with respect to the matters referred to in IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act, under interim written guidelines approved by the state fire marshal.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 22-11-14-2(a) and IC 22-11-14-8(d), both as amended by this act, and IC 22-11-14-3.5 and IC 22-11-14-15, both as added by this act.
- (2) December 31, 2007.

SECTION 22. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-11-14-11(d) and IC 22-11-14-15, both as added by this act, the department of state revenue shall carry out the duties imposed upon it by this act with respect to the matters

referred to in IC 22-11-14-11(d) and IC 22-11-14-15, both as added by this act, under interim written guidelines approved by the commissioner of the department of state revenue.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 22-11-14-11(d) and IC 22-11-14-15, both as added by this act.
- (2) December 31, 2007."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1099 as printed February 24, 2006.)

FORD

Upon request of Senator Ford the President ordered the roll of the Senate to be called. Roll Call 269: yeas 21, nays 28.

Motion failed. The bill was ordered engrossed.

Engrossed House Bill 1101

Senator Hershman called up Engrossed House Bill 1101 for second reading. The bill was reread a second time by title.

SENATE MOTION (Amendment 1101-6)

Madam President: I move that Engrossed House Bill 1101 be amended to read as follows:

Page 1, delete lines 1 through 15.

Page 2, delete lines 1 through 16, begin a new paragraph and insert:

"SECTION 1. IC 4-1-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 12. Confidential Information

Sec. 1. As used in this chapter, "gaming commission" refers to the Indiana gaming commission established by IC 4-33-3-1.

Sec. 2. The following information submitted, collected, or gathered as part of an application to the gaming commission for a license is confidential for purposes of IC 5-14-3-4:

- (1) Any information concerning a minor child of an applicant.
- (2) The Social Security number of an applicant or the spouse of an applicant.
- (3) The home telephone number of an applicant or the spouse of an applicant.
- (4) An applicant's birth certificate.
- (5) An applicant's driver's license number.
- (6) The name or address of a previous spouse of the applicant.
- (7) The date of birth of the spouse of an applicant.
- (8) The place of birth of the spouse of an applicant.
- (9) The personal financial records of the spouse or minor child of an applicant."

Page 3, line 34, delete "only".

Page 3, line 35, after "board" insert "only".

Page 5, line 34, delete "article," and insert "chapter,".

Page 5, line 36, delete "social security" and insert "Social Security".

Page 7, line 42, delete "social security" and insert "Social Security".

Renumber all SECTIONS consecutively.
(Reference is to EHB 1101 as reprinted February 24, 2006.)

HERSHMAN

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1114

Senator Steele called up Engrossed House Bill 1114 for second reading. The bill was read a second time by title.

SENATE MOTION (Amendment 1114-2)

Madam President: I move that Engrossed House Bill 1114 be amended to read as follows:

Page 2, between lines 8 and 9, begin a new paragraph and insert:
"SECTION 3. IC 33-37-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit.

(b) The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. ~~However, Subject to subsection (d), if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk shall collect a credit card service fee equal to the vendor transaction charge or discount fee from the person using the bank or credit card.~~ **shall collect a fee from the person using the bank or credit card.** The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

(c) **Subject to subsection (d), the clerk may contract with a payment processing company, which may collect a transaction fee from the person using the bank or credit card. The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.**

(d) **The clerk shall collect and deposit in the appropriate fund an amount not less than the amount the clerk would collect and deposit if the clerk received payment by a means other than a bank or credit card."**

Page 10, line 18, delete "However," and insert "**A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the county recorder receives payment or credit from the institution responsible for making the payment or credit. Subject to subsection (e),"**

Page 10, line 21, delete "from the person using the" and insert "**a fee from the person using the bank or credit card."**

Page 10, delete lines 22 through 25.

Page 10, line 26, delete "a fee."

Page 10, between lines 26 and 27, begin a new paragraph and insert:

"(d) **Subject to subsection (e), the county recorder may contract with a payment processing company, which may collect a transaction fee from the person using the bank or credit card.**

(e) **The county recorder shall collect and deposit in the appropriate fund an amount not less than the amount the county recorder would collect and deposit if the county recorder**

received payment by a means other than a bank or credit card."

Page 10, line 27, delete "(d)" and insert "(f)".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1114 as printed February 24, 2006.)

STEELE

Motion prevailed.

SENATE MOTION (Amendment 1114-5)

Madam President: I move that Engrossed House Bill 1114 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning property and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-7-3.5-32, AS ADDED BY SEA 349-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 32. (a) The title insurance enforcement fund is established for the following purposes:

(1) To provide supplemental funding for department operations that are related to title insurance.

(2) To pay the costs of hiring and employing staff in the areas of enforcement of title insurance law.

(b) The title insurance enforcement fund shall be administered by the commissioner. The expenses of administering the title insurance enforcement fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) **The budget agency may augment the appropriation for the department of insurance from balances in the fund.**

~~(e)-(f)~~ The following shall be deposited in the title insurance enforcement fund:

(1) **Policy reporting fees remitted by title insurers to the commissioner under section 32.5 of this chapter.**

~~(1)~~ (2) All fines, monetary penalties, and costs imposed upon persons by the department as authorized by law for violation of this chapter.

~~(2)~~ (3) Other amounts remitted to the commissioner or the department that are required by law to be deposited into the title insurance enforcement fund.

SECTION 2. IC 27-7-3.5-32.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 32.5. (a) **A person that purchases a title insurance policy shall pay to the title insurer that issues the title insurance policy a fee of five dollars (\$5) at the time of payment for the title insurance policy. The fee must be specified as a line item on the closing statement and on the HUD-1 or HUD 1A form used in residential transactions.**

(b) A title insurer shall:

(1) retain two dollars (\$2) of the fee collected under subsection (a) as an administrative fee; and

(2) pay to the department three dollars (\$3) of the fee collected under subsection (a) for deposit in the title

insurance enforcement fund established under section 32 of this chapter."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1114 as printed February 24, 2006.)

STEELE

Motion prevailed.

SENATE MOTION
(Amendment 1114-3)

Madam President: I move that Engrossed House Bill 1114 be amended to read as follows:

Page 8, line 8, delete "knowingly, intentionally, or recklessly".

(Reference is to EHB 1114 as printed February 24, 2006.)

M. YOUNG

The Chair ordered a division of the Senate. Yeas 18, nays 24.

Motion failed. The bill was ordered engrossed.

Engrossed House Bill 1123

Senator Becker called up Engrossed House Bill 1123 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1123-2)

Madam President: I move that Engrossed House Bill 1123 be amended to read as follows:

Page 2, line 30, after "quorum." insert **"The affirmative vote of at least six (6) members of the board is required for the board to take any official action."**

Page 3, line 32, after "tie," insert **"and the chairperson has not voted, the chairperson may cast a vote to break the tie."**

Page 3, line 32, delete "the position for which the".

Page 3, delete lines 33 through 34.

(Reference is to EHB 1123 as printed February 24, 2006.)

M. YOUNG

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1136

Senator Long called up Engrossed House Bill 1136 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1136-4)

Madam President: I move that Engrossed House Bill 1136 be amended to read as follows:

Page 5, line 8, delete "and" and insert **"or"**.

Page 5, line 16, delete "notice" and insert **"memorandum"**.

Page 5, line 19, after "commissions" delete ", but in no case" and insert **". The principal broker shall record a notice of lien no"**.

Page 5, line 21, after "claimed" insert **", but may not file a notice of lien against an owner's property if the tenant is the sole party liable for payment of the future fees or commissions"**.

Page 5, line 21, after "section" insert **"11(a) or"**.

Page 5, line 23, delete "two (2) years" and insert **"one (1) year"**.

Page 5, line 24, after "lien." insert **"A memorandum of lien**

recorded under this chapter must meet the requirements of sections 12(1)(A), 12(1)(B), 12(1)(C), 12(1)(E), 12(2), 12(3), and 12(4). A memorandum of lien shall not constitute a lien against the real estate but shall provide notice of the right to future fees or commissions."

Page 5, line 29, after "valid" insert **"memorandum of lien or"**.

Page 5, line 33, before "notice" insert **"right to future fees or commissions and, if applicable,"**.

Page 5, line 35, after "a" insert **"memorandum of lien or"**.

Page 6, line 19, after "lien." insert **"However, for future fees or commissions payable over a period in excess of one (1) year from the occurrence of a condition for which such future fees or commissions are claimed, the commencement of the suit must be within one (1) year of the latest date for which future fees or commissions are due."**

Page 7, line 22, after "a" insert **"memorandum of lien or"**.

Page 7, line 31, after "the" insert **"memorandum of lien or"**.

Page 8, line 6, after "a" insert **"memorandum of lien or"**.

Page 8, line 15, before "lien" insert **"memorandum or"**.

Page 8, line 15, after "release of the" insert **"memorandum or"**.

Page 8, line 36, before "lien" insert **"memorandum or"**.

(Reference is to EHB 1136 as printed February 24, 2006.)

LONG

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1158

Senator Bray called up Engrossed House Bill 1158 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1158-1)

Madam President: I move that Engrossed House Bill 1158 be amended to read as follows:

Page 11, between lines 6 and 7, begin a new paragraph and insert:
"SECTION 11. IC 33-37-7-9, AS AMENDED BY P.L.176-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state ~~seven million nine hundred thirty-two thousand two hundred nine dollars (\$7,932,209)~~ eight million two hundred seventy-seven thousand twenty-three dollars (\$8,277,023) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year, the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to ~~nine and thirty-seven hundredths percent (9.37%);~~ eight and ninety-nine hundredths percent (8.99%);

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to ~~thirty-two and fifty-three hundredths percent (32.53%);~~ thirty-one and eighteen hundredths percent (31.18%);

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to ~~two and ninety-eight hundredths percent (2.98%);~~ (2.86%);

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ~~twelve percent (12%); eleven and fifty-one hundredths percent (11.51%);~~

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to ~~thirteen and ninety-five hundredths percent (13.95%); thirteen and thirty-seven hundredths percent (13.37%);~~

(6) the motor vehicle highway account an amount equal to ~~twenty-two and seventy-eight hundredths percent (22.78%); twenty-one and eighty-four hundredths percent (21.84%);~~

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to ~~twenty-eight hundredths of one percent (0.28%); twenty-seven hundredths percent (.27%);~~

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to ~~one and eighty-nine hundredths percent (1.89%); one and eighty-two hundredths percent (1.82%);~~ and

(9) the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to ~~four and twenty-two hundredths percent (4.22%); eight and sixteen hundredths percent (8.16%);~~

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1:

(1) after June 30, 2004, and before July 1, 2005, one million seven hundred thousand dollars (\$1,700,000); and

(2) after June 30, 2005, two million seven hundred thousand dollars (\$2,700,000)."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1158 as printed February 24, 2006.)

BRAY

Motion prevailed.

SENATE MOTION (Amendment 1158-4)

Madam President: I move that Engrossed House Bill 1158 be amended to read as follows:

Page 2, line 10, after "for" insert ":

(1)".

Page 2, line 11, delete "." and insert "; and

(2) the inspection and copying of other report related data maintained by the department."

Page 3, line 15, after "costs fee," insert "the".

(Reference is to EHB 1158 as printed February 24, 2006.)

BRAY

Motion prevailed.

SENATE MOTION (Amendment 1158-3)

Madam President: I move that Engrossed House Bill 1158 be amended to read as follows:

Page 2, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 2. IC 33-34-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. A hearing must be conducted to obtain evidence, opinions, advice, and suggestions from public officials and the general public concerning:

(1) whether a small claims court ~~division~~ should be established or abolished in the township, if the township has a population of less than fifteen thousand (15,000) persons;

(2) whether the small claims court ~~division~~ should be full time or part time;

(3) the location of the small claims court ~~division~~ courtroom and offices; and

(4) other relevant matters.

SECTION 3. IC 33-34-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. Not more than two (2) weeks after a hearing is conducted under section 7 of this chapter, the township board shall, after considering the evidence, opinions, advice, and suggestions presented at the hearing, enter an order concerning:

(1) whether a small claims court ~~division~~ shall be established or abolished in the township if the township has a population of less than fifteen thousand (15,000) persons;

(2) whether the small claims court ~~division~~, if any, shall function full time or part time;

(3) the location of the small claims court ~~division~~ courtroom and offices under IC 33-34-6-1; and

(4) other relevant matters.

SECTION 4. IC 33-34-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. A judge shall be elected at the general election every four (4) years by the registered voters residing within the township in which the ~~division of the~~ small claims court is located.

SECTION 5. IC 33-34-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) If a judge is unable to preside over the judge's ~~division of the~~ small claims court during any number of days, the judge may appoint in writing a person qualified to be a small claims judge under IC 33-34-2-2 to preside in place of the judge.

(b) The written appointment shall be entered on the order book or record of the circuit court. The appointee shall, after taking the oath prescribed for the judges, conduct the business of the ~~division small claims court~~ subject to the same rules and regulations as judges and has the same authority during the continuance of the appointee's appointment.

(c) The appointee is entitled to the same compensation from the township trustee as accruable to the small claims judge in whose place the appointee is serving.

SECTION 6. IC 33-34-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A judge absent from the bench for more than thirty (30) days shall deposit the dockets, books, and papers of the office with the:

(1) small claims judge of another ~~division township~~; or

(2) circuit court;

as directed by the circuit court judge.

(b) A:

(1) judge with whom the docket of another judge is deposited during a vacancy or an absence; and
 (2) successor of any judge who has the dockets of the successor's predecessor in the successor's possession;
 may perform all duties that the judge might do legally in relation to the judge's own dockets.

(c) Process shall be returned to the judge who has the legal custody of the docket at the day of return.

SECTION 7. IC 33-34-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The township trustee shall provide a courtroom ~~for each division~~ and an office for each judge in a convenient location within the township that has:

- (1) adequate access;
- (2) sufficient parking facilities;
- (3) a separate and appropriate courtroom;
- (4) proper space and facilities for the bailiff, clerks, and other employees; and
- (5) enough room for files and supplies.

SECTION 8. IC 33-34-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. A township shall:

- (1) furnish all:
 - (A) supplies, including all blanks, forms, stationery, and papers of every kind, required for use in all cases in the township ~~division of the~~ small claims court; and
 - (B) furniture, books, and other necessary equipment and supplies; and
- (2) provide for all necessary maintenance and upkeep of the facilities where court is held."

Page 2, line 15, strike "County" and insert "**Township of Marion County**".

Page 2, line 16, strike "_____ Division".

Page 2, line 16, strike "county and".

Page 2, line 41, after "deposited" insert "**monthly**".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1158 as printed February 24, 2006.)

M. YOUNG

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1212

Senator Ford called up Engrossed House Bill 1212 for second reading. The bill was read a second time by title.

SENATE MOTION (Amendment 1212-2)

Madam President: I move that Engrossed House Bill 1212 be amended to read as follows:

Delete the title and insert the following:
 A BILL FOR AN ACT to amend the Indiana Code concerning local government and natural and cultural resources.

Page 2, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 2. IC 14-32-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The following are declared as a matter of legislative determination:

- (1) That the land and water resources of Indiana are among the basic assets of Indiana and that the proper management of these

resources is necessary to protect and promote the health, safety, and general welfare of the people of Indiana.

(2) That improper land use practices and failure to control and use rainfall and runoff water cause and contribute to deterioration and waste of these resources of Indiana.

(3) That the breaking of natural grass, plant, and forest cover has interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus and developing a soil condition that favors excessive runoff and erosion, with the following results:

(A) The topsoil is being blown and washed out of the fields and pastures.

(B) There has been an accelerated washing of sloping fields.

(C) These processes of erosion by wind and water speed up with removal of the topsoil, exposing the less absorptive, less protective, less productive, and more erosive subsoil.

(4) That valuable water resources are being lost causing damages in watersheds.

(5) That failure by a land occupier to properly manage the soil and water causes a washing and blowing of these resources onto other land and makes the conservation of these resources on the other land more difficult.

(6) That the consequences of soil erosion and failure to control and use rainfall and runoff water are the following:

(A) The silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors.

(B) The loss of fertile soil material.

(C) The piling up of soil on lower slopes and the deposit over alluvial plains.

(D) The reduction in productivity or outright ruin of bottom land by flooding and overwash of poor subsoil material, sand, and gravel swept out of the hills.

(E) The deterioration of soil and the soil's fertility, deterioration of crops grown, and reduction in crop yields.

(F) The loss of soil and water that causes destruction of food and cover for wildlife.

(G) A blowing and washing of soil into streams and lakes that silts over spawning beds and destroys water plants, diminishing the food supply of fish.

(H) A diminishing of the underground water reserve and loss of surplus rainfall runoff causing water shortages, intensifying periods of drought, and causing crop failures.

(I) An increase in the speed and volume of rainfall runoff, causing severe and increasing floods.

(J) Economic hardship for those attempting to farm land that is eroded or subject to frequent flooding.

(K) Damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms.

(L) Losses in navigation, hydroelectric power, municipal water supply, recreational water development, irrigation developments, farming, and grazing.

(7) That to conserve soil and water resources, control and prevent soil erosion, **protect water quality**, reduce flood damage, and further the conservation development, use, and disposal of water, it is necessary that:

(A) land use practices contributing to soil and water wastage, **water quality impairment**, and soil erosion be

discouraged and discontinued; and

(B) appropriate soil and water conserving land use practices and works of improvement for flood prevention or the conservation development, use, and disposal of water be adopted and carried out.

(8) That among the procedures necessary for widespread adoption are the following:

(A) Carrying on of engineering operations such as the construction of flood preventing reservoirs and channels, terraces, terrace outlets, check dams, dikes, ponds, ditches, and similar operations.

(B) The use of soil protecting agronomic practices, such as strip cropping, contour cropping, and conservation tillage.

(C) Land irrigation.

(D) Seeding and planting of sloping, abandoned, or eroded land to water-conserving and erosion-preventing plants, trees, and grasses.

(E) Forestation and reforestation.

(F) Rotation of crops.

(G) Soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops.

(H) Retardation of runoff by impounding the runoff water behind structures, by increasing the absorption of rainfall, and by retiring from cultivation all steep, highly erosive areas and areas already badly eroded.

(I) The use of water quality protection practices, including nutrient and pesticide management on all lands.

SECTION 3. IC 14-32-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. In light of the determination set forth in section 1 of this chapter, it is the policy of the general assembly to provide for the proper management of soil and water resources, the control and prevention of soil erosion, the prevention of flood water and sediment damage, **the prevention of water quality impairment**, and the conservation development, use, and disposal of water in the watersheds of Indiana to accomplish the following:

(1) Conserve the natural resources, including wildlife.

(2) Control floods.

(3) Prevent impairment of dams and reservoirs.

(4) Assist in maintaining the navigability of rivers and harbors.

(5) Protect the water quality of lakes and streams.

(6) Protect the tax base.

(7) Protect public land.

(8) Protect and promote the health, safety, and general welfare of the people of Indiana.

(9) Protect a high quality water resource.

SECTION 4. IC 14-32-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The soil conservation board is established within the department of **agriculture established by IC 15-9-2-1 as the policy making body for soil and water conservation.**

SECTION 5. IC 14-32-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The board consists of the following ~~nine (9)~~ **seven (7)** members:

(1) Four (4) members who must be land occupiers with farming interests, appointed by the governor.

(2) ~~Two (2)~~ **Three (3)** members who must be land occupiers with nonfarming interests, appointed by the governor.

~~(3) Three (3) ex officio members as follows:~~

~~(A) The director or the director's designee.~~

~~(B) The director of the department of agriculture or the director's designee.~~

~~(C) The director of the Purdue University cooperative extension service or the director's designee.~~

SECTION 6. IC 14-32-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A majority of the ~~six (6)~~ **seven (7)** appointed members of the board must have experience as district supervisors.

(b) In making appointments to the board, the governor may invite and consider the recommendations of the following:

(1) The Purdue University cooperative extension service.

(2) The department of **agriculture.**

(3) The Indiana Association of Soil and Water Conservation Districts.

(c) All appointments to the board shall be made without regard to political affiliation.

(d) The members appointed to the board under section 2(1) and 2(2) of this chapter must be residents of at least four (4) different geographic regions of Indiana.

SECTION 7. IC 14-32-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. ~~(a)~~ The term of an appointed member of the board is four (4) years. An appointed member shall serve until a successor is appointed and has qualified. The terms shall be staggered so that **at least** three (3) members are appointed every two (2) years.

~~(b) The terms of the three (3) ex officio members of the board are coterminous with the governor's term of office.~~

SECTION 8. IC 14-32-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. **(a)** The governor may appoint advisory members from other **organizations that promote conservation, including local, state, and federal agencies** upon the recommendation of the board.

(b) The governor shall appoint members to the advisory board that represent the following:

(1) The department of agriculture.

(2) The department of natural resources.

(3) The department of environmental management.

(4) The Purdue University cooperative extension service.

(5) The Indiana Association of Soil and Water Conservation Districts.

(6) The Farm Service Agency of the United States Department of Agriculture.

(7) The Natural Resources Conservation Service of the United States Department of Agriculture.

SECTION 9. IC 14-32-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. The board shall do the following:

(1) Provide for the execution of surety bonds for all board employees and officers who are entrusted with money or property.

(2) Provide for the keeping of a full and accurate record of all board proceedings and of all resolutions and rules the board issues or adopts. The accounts of receipts and disbursements are subject to examination by the state board of accounts.

(3) Offer appropriate assistance to the supervisors of soil and water conservation districts to carry out district powers and programs.

(4) Keep the supervisors of districts informed of the activities and experience of all other districts and facilitate cooperation and an interchange of advice and experience among districts.

(5) Coordinate the programs of the districts as far as this may be done by advice and consultation.

(6) Secure the cooperation and assistance of the United States and state agencies in the work of the districts. However, this subdivision does not authorize either of the following:

(A) The transfer or control of authority over districts to a federal agency.

(B) The transfer of title of land or control to the United States.

(7) Disseminate information throughout Indiana concerning the activities and programs of the districts and encourage the formation of districts in areas where organization is desirable.

(8) Coordinate the erosion and sediment part of 33 U.S.C. 1288 (Public Law 92-500, Section 208) and other erosion and sediment reduction programs that affect water quality, in cooperation with state and federal agencies and through districts as provided under IC 14-32-5-1.

(9) Develop a statewide regulatory program to be initiated after all reasonable voluntary approaches to erosion and sediment reduction have been exhausted.

(10) Conduct an inventory of conservation needs for planning purposes and to inform the general assembly.

(11) Hold meetings in locations throughout Indiana.

~~(10)~~ **(12) Adopt rules under IC 4-22-2 to implement this article.**

SECTION 10. IC 14-32-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The governing body of a district consists of five (5) supervisors as follows:

(1) Two (2) who are appointed.

(2) Three (3) who are elected.

(b) To hold the position of elected supervisor, an individual:

(1) must be an occupier of a tract of land that is:

(A) more than ten (10) acres in area; and

(B) located within the district;

(2) must maintain the individual's permanent residence within the district; and

(3) must be qualified by training and experience to perform the duties that this article imposes on supervisors.

However, the ten (10) acre requirement may be waived if a district requests a waiver and the waiver is approved by the board.

(c) To hold the position of appointed supervisor, an individual:

(1) must be of voting age;

(2) must maintain the individual's permanent residence within the district; and

(3) must be qualified by training and experience to perform the duties that this article imposes on supervisors.

SECTION 11. IC 14-32-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. ~~(a)~~ The election committee appointed under section 7 of this chapter shall do the following:

(1) Select qualified individuals as prospective nominees to fill any vacancies that exist among the elected supervisors of the

district.

(2) Contact and ascertain the willingness and ability of each individual to serve if elected.

(3) Submit the list of nominees with the qualifications for certification and printing of a sample ballot to the board by December 1.

(4) Place the names of the prospective nominees selected under subdivisions (1) and (2) in nomination at the meeting and provide an opportunity for additional nominations to be made from the floor.

(5) After nominations are closed, distribute a ballot to each land occupier present at the meeting.

(6) Collect and count the ballots after each land occupier present at the meeting has had an opportunity to vote.

(7) Report the results of the election to the chairman.

~~(b) The number of prospective nominees selected under subsection (a)(1) must exceed the number of vacancies that exist among the elected supervisors of the district by at least one (1).~~

SECTION 12. IC 14-32-4-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 10.5. (a) The board may appoint associate supervisors to assist in performing duties in each district.**

(b) Associate supervisors are nonvoting members of the board and may not hold officer positions on the board.

(c) Associate supervisors may be reimbursed for approved expenses but are not entitled to per diem.

SECTION 13. IC 14-32-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22. The supervisors of a district shall do the following:

(1) Provide for the execution of surety bonds for all district employees and officers who are entrusted with money or property.

(2) Provide for the keeping of a full and accurate record of all district proceedings and of all district resolutions and orders issued or adopted.

(3) Provide for an annual audit of the accounts of receipts and disbursements of the district.

(4) Provide a copy of each annual financial statement of the district to the board **not later than March 31.**

SECTION 14. IC 14-32-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) A district constitutes a governmental subdivision of the state and a public body corporate and politic exercising public powers.

(b) A district may do the following:

(1) Carry out soil erosion and water runoff preventive and control measures within the district, including engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in IC 14-32-1-1(7) and IC 14-32-1-1(8), on the following:

(A) Land owned or controlled by the state with the consent and cooperation of the agency administering and having jurisdiction of the land.

(B) Any other land within the district upon obtaining the consent of the occupier of the land or the necessary rights or interests in the land.

(2) Construct, improve, operate, and maintain the structures that are necessary or convenient for the performance of any of the

operations authorized in this article.

(3) Cooperate or enter into agreements with, and within the limits of appropriations made available to the district by law to furnish financial or other aid to, a federal, state, or other agency or an occupier of land within the district in the carrying on of conservation operations within the district, subject to the conditions that the supervisors consider necessary to advance the purpose of this article.

(4) Obtain options upon and acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, real or personal property or rights or interests in property.

(5) Maintain, administer, and improve property acquired, receive income from the property, and expend the income in carrying out this article.

(6) Sell, lease, or otherwise dispose of property or interests in property in furtherance of this article.

(7) Make available to land occupiers within the district, on terms that the district prescribes:

- (A) agricultural and engineering machinery and equipment;
- (B) fertilizer;
- (C) seeds;
- (D) seedlings;
- (E) other material or equipment; and
- (F) services from the district;

that will assist in conserving the soil and water resources of the land occupiers.

(8) Develop or participate in the development of comprehensive plans for the proper management of soil and water resources within the district that specify the acts, procedures, performances, and avoidances necessary or desirable for the effectuation of the plans.

(9) Publish plans and information developed under subdivision (8) and bring the plans and information to the attention of land occupiers within the district.

(10) Take over, with the consent of the United States or the state, by purchase, lease, or otherwise, and administer any soil and water conservation, erosion control, water quality protection, or flood prevention project of the entity located within the district's boundaries.

(11) Manage, as agent of the United States or the state, any soil and water conservation, erosion control, water quality protection, flood prevention, or outdoor recreation project within the district's boundaries.

(12) Act as agent for the United States or the state in connection with the acquisition, construction, operation, or administration of any soil and water conservation, erosion control, water quality protection, flood prevention, or outdoor recreation project within the district's boundaries.

(13) Accept donations, gifts, and contributions in money, services, materials, or otherwise from the United States and use or expend the services, materials, or other contributions in carrying on the district's operations.

(14) Sue and be sued in the name of the district.

(15) Have perpetual succession unless terminated as provided in this article.

(16) Make and execute contracts and other instruments necessary or convenient to the exercise of the district's powers.

(17) Adopt rules and regulations consistent with this article to carry into effect the purposes and powers of this article.

(18) Require an occupier of land not owned or controlled by the state, as a condition to extending benefits under this article to or the performance of work upon the land, to do either or both of the following:

- (A) Make contributions in money, services, materials, or otherwise to an operation conferring benefits.
- (B) Enter into agreements or covenants concerning the use and treatment of the land that will tend to:
 - (i) prevent or control soil erosion;
 - (ii) achieve water conservation and water quality protection; and
 - (iii) reduce flooding;
 on the land.

(19) Cooperate with the state in the following:

- (A) Conducting surveys, investigations, and research relating to the character of soil erosion and water losses and the preventive and control measures needed.
- (B) Publishing the results of the surveys, investigations, or research.
- (C) Disseminating information concerning the preventive and control measures.

(D) The management of watersheds.

(20) Cooperate with the state in conducting, within the district, soil and water conservation, erosion control, water quality protection, and flood prevention demonstration projects:

- (A) on land owned or controlled by the state with the agency administering and having jurisdiction of the land; and
- (B) on any other land upon obtaining the consent of the occupier of the land or the necessary rights or interests in the land.

(21) Serve as the management agency for:

- (A) the erosion and sediment part of 33 U.S.C. 1288 (P.L. 92-500, section 208); and
- (B) other erosion and sediment reduction programs that affect water quality in each county.

SECTION 15. IC 14-32-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) The division of soil conservation:

- (1) shall administer and coordinate the duties and responsibilities of the department of **agriculture** under the land resource programs authorized by this chapter; and
- (2) in carrying out its duties under subdivision (1), may work in cooperation with the following:

- (A) Federal and state agencies.
- (B) Local governmental agencies involved in land use planning and zoning.
- (C) Any person, firm, institution, or agency, public or private, having an interest in land conservation.

(b) The department of **agriculture** may employ the personnel and provide facilities and services that are necessary to carry out the ~~department's~~ **department of agriculture's** duties and responsibilities under this chapter.

(c) The department of agriculture shall prepare an annual report of the division of soil conservation's expenditures and accomplishments and that contains a proposed business plan.

SECTION 16. IC 14-32-7-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8.5. (a) As used in this section, "soil survey" means a systematic scientific identification, inventory, and mapping of the soils of a given area that sets forth the capabilities, potential, and limitations of the soils in the satisfaction of human needs.

(b) The department of agriculture shall use the money appropriated by the general assembly to implement and supplement a program of modern soil surveys and geographic information systems (GIS) for Indiana that will, within the shortest practicable time, provide a modern soil survey and geographic information system for each county as an essential tool in land conservation.

SECTION 17. IC 14-32-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) As used in this section, "river" includes streams and the tributaries of rivers.

(b) The division of soil conservation shall do the following:

(1) Perform all administrative duties required by the rules of the board.

(2) Provide professional assistance to districts in planning, coordinating, and training for the following:

(A) Adult soil and water conservation education.

(B) Natural resources conservation information programs for elementary and secondary schools.

(C) Supervisors and staff.

(3) Provide professional soil conservation technical assistance to districts.

(4) Provide nonagricultural soils interpretive and erosion control expertise on a regional basis.

(5) Assist the districts and other federal, state, and local entities in encouraging and monitoring compliance with those aspects of the programs that are related to erosion and sediment reduction.

(6) Administer a cost share program for installation of erosion control structural measures on severely eroding cropland and for conversion of highly erodible land from crop production to permanent vegetative cover.

(7) Administer a lake and river enhancement program to do the following:

(A) Control sediment and associated nutrient inflow into lakes and rivers.

(B) Accomplish actions that will forestall or reverse the impact of that inflow and enhance the continued use of Indiana's lakes and rivers.

(8) Provide professional assistance to districts in conservation needs assessments, program development, and program evaluation.

SECTION 18. IC 14-32-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The purpose of the program is to provide financial assistance to:

(1) soil and water conservation districts;

~~(1)~~ **(2) land occupiers; and**

~~(2)~~ **(3) conservation groups;**

to implement conservation practices to reduce nonpoint sources of water pollution through education, technical assistance, training, and cost sharing programs.

SECTION 19. IC 14-32-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. Money in the fund

may be spent in the following ways:

(1) To increase district technical assistance in local conservation efforts.

(2) To develop an environmental stewardship program to assist land occupiers in complying with environmental regulations voluntarily.

(3) To qualify for federal matching funds for county soil survey computerization.

(4) To provide for the following cost sharing programs:

(A) A program to encourage land occupiers to implement conservation practices to reduce nutrient, pesticide, and sediment runoff.

(B) Programs that encourage land occupiers to implement nutrient management programs by sharing the cost of any of the following:

(i) Fencing for intensive grazing systems.

(ii) Purchasing nutrient management equipment.

(iii) Voluntary environmental audits.

(iv) Other similar expenditures related to nutrient management.

(5) To provide matching grants to districts for the following:

(A) Professional watershed coordinators to facilitate and administer local watershed protection projects.

(B) District managers to administer district conservation policies and programs.

(6) To increase state technical and capacity building assistance to districts and local conservation efforts by providing for the following:

(A) Capacity building specialists to train district personnel in grant writing, grant administration, and leadership development.

(B) Conservation education specialists to help implement district conservation education efforts.

(C) Urban storm water specialists to provide technical assistance to developers to contain soil erosion on construction sites.

(7) To make distributions as provided under section 8 of this chapter.

(8) Implementation of geographic information systems (GIS) or similar technology.

SECTION 20. IC 14-32-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) In addition to funds provided to a district under section 7 of this chapter or from any other source, the division of soil conservation shall pay to the district one dollar (\$1) for every one dollar (\$1) the district receives from a political subdivision.

(b) The state is not obligated to match more than ten thousand dollars (\$10,000) under this section.

(c) In order to receive funding under this section ~~before April 15~~ of each year, a district must certify to the division of soil conservation the amount of money the district received from all political subdivisions during the one (1) year period beginning January 1 of the previous year. **The information prepared under this subsection must be part of the report prepared under IC 14-32-4-22.** The division of soil conservation shall make distributions under this section not later than July 15 of each year.

(d) Before making distributions under this section, the division of soil conservation shall determine the total amount of money that has been certified by all districts as having been provided by political subdivisions. If the cumulative amount to be distributed to all districts exceeds the amount appropriated to the fund, the division of soil conservation shall reduce the distribution to each district proportionately.

(e) A district must spend money received under this section for the purposes of the district."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1212 as printed February 24, 2006.)

NUGENT

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1214

Senator Long called up Engrossed House Bill 1214 for second reading. The bill was reread a second time by title.

SENATE MOTION
(Amendment 1214-1)

Madam President: I move that Engrossed House Bill 1214 be amended to read as follows:

Page 1, line 7, delete "June 30, 2006." and insert "July 1, 2006."
(Reference is to EHB 1214 as printed February 24, 2006.)

LONG

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1338

Senator Lubbers called up Engrossed House Bill 1338 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1338-3)

Madam President: I move that Engrossed House Bill 1338 be amended to read as follows:

Page 2, line 31, after "or" delete "subdivision".

Page 3, between lines 5 and 6, begin a new line block indented and insert:

"(3) 'High performing' means placement by the state board in the exemplary or commendable performance category."

Page 3, line 6, delete "(3)" and insert "(4)".

Page 3, line 8, delete "(4)" and insert "(5)".

Page 3, line 11, delete "that" and insert "that:

(1)".

Page 3, line 12, delete "performance" and insert "performance;
or

(2) achieve or maintain a high level of academic performance;"

Page 3, line 12, beginning with "with" begin a new line blocked left.

Page 3, between lines 28 and 29, begin a new line block indented and insert:

"(2) Designation as a high performing school."

Page 3, line 29, delete "(2)" and insert "(3)".

Page 4, delete lines 22 through 23.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1338 as printed February 24, 2006.)

LUBBERS

Motion prevailed.

SENATE MOTION
(Amendment 1338-1)

Madam President: I move that Engrossed House Bill 1338 be amended to read as follows:

Page 4, between lines 1 and 2, begin a new paragraph and insert:
"SECTION 3. IC 20-34-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 5. Care of Students With Diabetes

Sec. 1. The department and the state department of health shall:

(1) develop and implement a pilot program that meets the requirements of this chapter not later than July 1, 2007; and

(2) implement this chapter statewide not later than July 1, 2009.

Sec. 2. As used in this chapter, "unlicensed assistive personnel" means a school employee who:

(1) is not a licensed health care professional;

(2) has successfully completed the training required under section 10 of this chapter; and

(3) has immunity from liability under IC 34-30-14.

Sec. 3. As used in this chapter, "diabetes management and treatment plan" means a plan prepared under section 7 of this chapter.

Sec. 4. As used in this chapter, "individualized health plan" means a coordinated plan of care designed to meet the unique health care needs of a student with diabetes in a school setting.

Sec. 5. As used in this chapter, "school employee" means an individual employed by:

(1) a public school or an accredited nonpublic school;

(2) a local health department working with a school under this chapter; or

(3) another entity with which a school has contracted to perform the duties required under this chapter.

Sec. 6. As used in this chapter, "student" refers to a student with diabetes.

Sec. 7. (a) A diabetes management and treatment plan must be prepared and implemented for a student with diabetes while the student is at school or participating in a school activity. The plan must be developed by:

(1) the student's parent or guardian; and

(2) the licensed physician responsible for the student's diabetes treatment or another diabetes health care provider ordered in writing by the physician.

(b) A diabetes management and treatment plan must:

(1) identify the health care services the student may need at school;

(2) evaluate the student's:

(A) ability to manage; and

(B) level of understanding of;

the student's diabetes;

(3) specify the care that may be performed by the student with an agreed upon level of supervision; and

(4) be signed by the student's parent or guardian and the licensed physician responsible for the student's diabetes treatment or another diabetes health care provider ordered in writing by the physician.

(c) The parent or guardian of a student with diabetes who will be attending school or participating in a school activity shall submit a copy of the student's diabetes management and treatment plan to the school. The plan must be submitted to and be reviewed by the school:

(1) before or at the beginning of a school year;

(2) at the time the student enrolls, if the student is enrolled in school after the beginning of the school year; or

(3) as soon as practicable following a diagnosis of diabetes for the student.

Sec. 8. (a) An individualized health plan must be developed for each student with diabetes who will be attending school or participating in a school activity. The school's principal and school nurse shall develop a student's individualized health plan in collaboration with:

(1) the student's parent or guardian;

(2) to the extent practicable, the licensed physician responsible for the student's diabetes treatment or another diabetes health care provider ordered in writing by the physician; and

(3) one (1) or more of the student's teachers.

(b) A student's individualized health plan must incorporate the components of the student's diabetes management and treatment plan. A school shall develop a student's individualized health plan upon receiving the student's diabetes management and treatment plan.

Sec. 9. (a) At each school in which a student with diabetes is enrolled, the school principal shall:

(1) seek school employees to serve as unlicensed assistive personnel; and

(2) make efforts to ensure that the school has adequate personnel to safely implement a diabetes case plan.

(b) Unlicensed assistive personnel serve under the supervision of the school nurse.

(c) A school employee may not be subject to any disciplinary action for refusing to serve as unlicensed assistive personnel.

Sec. 10. (a) The state department of health, with the assistance of interested parties, shall develop a training program that includes instruction in the following:

(1) Recognizing the symptoms of hypoglycemia and hyperglycemia.

(2) Understanding the proper action to take if the blood glucose levels of a student are outside the target ranges indicated on the student's diabetes management and treatment plan.

(3) Understanding the details of a student's individualized health plan.

(4) Performing finger sticks to check blood glucose levels, checking urine ketone levels, and recording the results of the checks.

(5) Properly administering glucagon and insulin, and recording the results of the administration.

(6) Recognizing complications that require emergency medical assistance.

(7) Understanding recommended schedules and food intake for meals and snacks for a student, the effect of physical activity on blood glucose levels, and the proper action to be taken if a student's schedule referred to in this subdivision is disrupted.

(b) If a school nurse is assigned to a school, the school nurse shall coordinate the training of school employees acting as unlicensed assistive personnel, using the training program developed under subsection (a).

(c) Training for unlicensed assistive personnel must be provided by a health care professional with expertise in the care of students with diabetes or by a school nurse. The training must be provided before the beginning of the school year or as soon as practicable following:

(1) the enrollment; or

(2) the diagnosis;

of a student with diabetes at a school that previously had no students with diabetes.

(d) The school nurse or principal shall maintain a copy of the training program and the records of training completed by the school employees.

Sec. 11. (a) If a school nurse is assigned to a school and the nurse is available, the nurse shall perform the tasks necessary to assist a student in carrying out the student's individualized health plan.

(b) If a school nurse is not assigned to a school or is not available, unlicensed assistive personnel shall perform the tasks necessary to assist a student in carrying out the student's individualized health plan, in compliance with the training guidelines provided under section 10 of this chapter. Unlicensed assistive personnel must have access to a health care professional with expertise in the care of students with diabetes or a school nurse must have access to the licensed physician responsible for the student's diabetes treatment if unlicensed assistive personnel act under this subsection.

(c) Unlicensed assistive personnel may act under this section only if the parent or guardian of the student signs an agreement that:

(1) authorizes unlicensed assistive personnel to assist the student; and

(2) states that the parent or guardian understands that, as provided under IC 34-30-14, unlicensed assistive personnel is not liable for civil damages for assisting in the student's care.

(d) Unlicensed assistive personnel who assist a student under this section in carrying out the student's individualized health plan:

(1) is not considered to be engaging in the practice of nursing;

(2) is exempt from applicable statutes and rules that restrict activities that may be performed by an individual who is not a health care professional; and

(3) shall contact a health care provider in a medical emergency involving a student with diabetes.

(e) A school corporation may not restrict the assignment of a student to a particular school on the basis that the school does not

have the required unlicensed assistive personnel.

Sec. 12. As provided in a student's individualized health plan, a school corporation shall allow the student to attend to the management and care of the student's diabetes, including performing the following activities:

- (1) Performing blood glucose level checks.**
- (2) Administering insulin through the insulin delivery system the student uses.**
- (3) Treating hypoglycemia and hyperglycemia.**
- (4) Possessing on the student's person at any time the supplies or equipment necessary to monitor and care for the student's diabetes.**
- (5) Otherwise attending to the management and care of the student's diabetes in the classroom, in any area of the school or school grounds, or at any school related activity."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1338 as printed February 24, 2006.)

LANDSKE

Motion prevailed. The bill was ordered engrossed.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1001

Senator Kenley called up Engrossed House Bill 1001 for third reading:

A BILL FOR AN ACT concerning taxation and to make an appropriation.

SENATE MOTION (Amendment 1001-16)

Madam President: I move that Engrossed House Bill 1001 be recommitted to a Committee of One, consisting of Senator Kenley, with specific instruction to amend said bill as follows:

Page 63, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 43. IC 6-3.1-13-18, AS AMENDED BY P.L.197-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 18. (a) The corporation shall determine the amount and duration of a tax credit awarded under this chapter. The duration of the credit may not exceed ten (10) taxable years. The credit may be stated as a percentage of the incremental income tax withholdings attributable to the applicant's project and may include a fixed dollar limitation. In the case of a credit awarded for a project to create new jobs in Indiana, the credit amount may not exceed the incremental income tax withholdings. However, the credit amount claimed for a taxable year may exceed the taxpayer's state tax liability for the taxable year, in which case the excess may, at the discretion of the corporation, be refunded to the taxpayer.

(b) For state fiscal years ~~2004, 2005, 2006, and 2007, 2008, and 2009~~, the aggregate amount of credits awarded under this chapter for projects to retain existing jobs in Indiana may not exceed ~~five ten~~ million dollars ~~(\$5,000,000)~~ **(\$10,000,000)** per year."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1001 as printed March 1, 2006.)

KENLEY

Motion prevailed.

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred the Motion to recommit Engrossed House Bill 1001, to a Committee of One, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said Motion be adopted.

GARTON, Chair

Report adopted.

COMMITTEE REPORT

Madam President: Your Committee of One, to which was referred Engrossed House Bill 1001, begs leave to report that said Bill has been amended as directed.

KENLEY

Report adopted.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 270: yeas 37, nays 12. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1102

Senator Lawson called up Engrossed House Bill 1102 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 271: yeas 48, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure reports that pursuant to Senate Rule 33(c), the following technical correction is to be made to Engrossed House Bill 1102.

Page 2, line 13, delete "month".

(Reference is to EHB 1102 as reprinted February 28, 2006.)

GARTON, Chair

Report adopted.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1110

Senator Gard called up Engrossed House Bill 1110 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 272: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1117

Senator Gard called up Engrossed House Bill 1117 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 273: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1128

Senator Wyss called up Engrossed House Bill 1128 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 274: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1138

Senator Weatherwax called up Engrossed House Bill 1138 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources and to make an appropriation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 275: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

SENATE MOTION

Madam President: I move that Senator Dillon be added as cosponsor of Engrossed House Bill 1001.

KENLEY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Landske be added as cosponsor of Engrossed House Bill 1102.

LAWSON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hume be added as cosponsor of Engrossed House Bill 1397.

LAWSON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Bowser be added as cosponsor of Engrossed House Bill 1420.

GARD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Broden and Breaux be added as cosponsors of Engrossed House Bill 1212.

FORD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Simpson be added as cosponsor of Engrossed House Bill 1239.

LONG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Lanane be added as cosponsor of Engrossed House Bill 1362.

DELPH

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Lanane be added as cosponsor of Engrossed House Bill 1418.

HEINOLD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Sipes be added as cosponsor of Engrossed House Bill 1338.

LUBBERS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hume be added as cosponsor of Engrossed House Bill 1117.

GARD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Simpson be added as cosponsor of Engrossed House Bill 1329.

MILLER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Lanane be added as cosponsor of Engrossed House Bill 1101.

HERSHMAN

Motion prevailed.

**MOTIONS TO DISSENT
FROM HOUSE AMENDMENTS**

SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 193 and that a conference committee be appointed to confer with a like committee of the House.

BRAY

Motion prevailed.

SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 284 and that a conference committee be appointed to confer with a like committee of the House.

WYSS

Motion prevailed.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 21, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 235 because it requires an emergency clause and does not contain one, has had Engrossed Senate Bill 235 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 235 be corrected as follows:

Page 4, after line 16, begin a new paragraph and insert:
"SECTION 4. **An emergency is declared for this act.**".
(Reference is to ESB 235 as printed February 21, 2006.)

GARTON, Chair
R. YOUNG, R.M.M.
GARD

Report adopted.

SENATE MOTION

Madam President: I move that Senators Kruse and Wyss be added as cosponsors of Engrossed House Bill 1001.

KENLEY

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 10:00 a.m., Thursday, March 2, 2006.

GARTON

Motion prevailed.

The Senate adjourned at 9:55 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate